

TITLE 2: ZONING

CHAPTER 11 - ADMINISTRATION AND ENFORCEMENT

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SECTION 2-11-1 RESPONSIBILITY FOR ZONING ADMINISTRATION

The authority for administration of this Title is hereby vested in the Zoning Officer, the Zoning Board of Appeals, the Planning Commission and the City Council as outlined herein.

- A. Duties of the City Council in Administration of this Title: The City Council, in its responsibilities under this Title, shall carry out and perform the following duties:
 - 1. Approve the appointment, by the Mayor, of the Zoning Officer.
 - 2. Take action, following procedures as outlined herein on the following:
 - (a) Adopting zoning standards, including the Zoning District Map, and take action on subsequent petitions for amendment of such standards.
 - (b) Take action on special use applications.
 - (c) Take action on variation applications.
 - 3. Engage professional services as it deems advisable to assist the Planning Commission and/or City Council in review of matters pending before one or more such bodies.
- B. Zoning Officer, Creation of Office, Appointment and Duties: The Zoning Officer of the City shall be appointed for a one (1) Year Term by the Mayor with the approval of the City Council. Term of office shall run from May 1 to April 30. A Deputy Zoning Officer may be appointed in a similar manner to take action on Zoning Officer matters in the absence of the Zoning Officer. Re-appointments are possible.

Duties of the Zoning Officer in Administration of this Title: The Zoning Officer, in his responsibilities under this Title, shall carry out and perform the following duties:

 - 1. Issue all zoning and sign permits and maintain records of permits issued. Issue all certificates of occupancy and maintain records of certificates issued.
 - 2. Conduct inspections of buildings, structures and uses of land to determine compliance with the terms of this Title.
 - 3. Maintain necessary forms for permits, appeals, application for zoning amendments, special uses, variances, and other matters required to be acted upon by the Zoning Board of Appeals.
 - 4. Inform persons in violation of this Title of the provisions of this Title with which they are in noncompliance and the remedies available to them. Notify the City Council and City Attorney by letter of persons found in violation. Post stop work orders and assess stop work order fees established by City Council.
 - 5. Maintain permanent and current records of this Title, including, but not limited to copies of zoning ordinances including district maps, all maps, amendments and special uses, variations, appeals and applications therefor.
 - 6. Receive, file, and forward to the Zoning Board of Appeals, applications for special uses, or variations and arrange for proper notice for public hearing.
 - 7. Receive, file and forward to the Planning Commission applications for amendments and arrange for proper notice for public hearing. Receive, file, and forward site plan review materials to the Planning Commission in instances where site plan review is required under this Title.
 - 8. Make recommendation to the City Council and Planning Commission periodically on need for amending and restudy of the provisions of this Title.

9. Provide such clerical and technical assistance as may be required by the office in the exercise of its duties.
- C. Duties of the Planning Commission in Administration of this Title: The Planning Commission has the following duties and responsibilities under this Title:
1. To receive from the Zoning Officer applications for amendment of this Title, hear and make recommendations upon such applications. Notify City Council of such recommendations.
 2. To receive from the Zoning Officer materials for site plan review in those instances where site plan review is required under this Title.
 3. To, upon its own action, petition for zoning amendments when deemed appropriate.
- D. Duties of the Zoning Board of Appeals in Administration of this Title:
1. Receive from the Zoning Officer, hear and make determinations of appeals filed by any person, office, department, board or bureau aggrieved by a decision of the Zoning Officer and notify the Zoning Officer of such determination.
 2. Receive from the Zoning Officer, hear and recommend variations of this Title in harmony with the general purpose and intent, and only in the specific instances contained in the variation procedures outlined in this Chapter. Notify the Zoning Officer of such variation actions and recommendation to Council.
 3. Receive from the Zoning Officer applications for special exceptions, hear and make determinations consistent with the standards outlined in this Title for granting special exceptions. Notify the Zoning Officer of such decisions and recommendation to Council.
 4. To, upon its own action, petition for zoning amendment when deemed appropriate.

SECTION 2-11-2 PROCEDURE FOR ZONING ADMINISTRATION

- A. Zoning Permit Procedure:
1. No zoning permit pertaining to the use of land, structures or buildings or sign permit shall be issued by any officer, department or employee of the City unless the application for such permit has been subjected to review by the Zoning Officer for compliance with this Title. Any permit issued in conflict with the provisions of this Title shall be null and void. Zoning or sign permits shall not be issued to any applicant so long as that applicant is indebted to the City for any prior fees of any type.
 2. Applications for zoning and sign permits shall be filed in written form with the Zoning Officer on forms prescribed by him indicating:

For Zoning Permits:

 - a. Legal description and address of the property;
 - b. Name and address of applicant, owner and contractor;
 - c. Uses to be established or expanded;
 - d. Other information deemed appropriate by the Zoning Officer to clearly denote the nature and character of the intended improvement and use.

For Sign Permits:

 - a. Address of property;
 - b. Description of sign to be constructed or erected, including location, dimensions, height and clearances (for overhead signs).
 3. For all uses, except one and two-family residential structures on platted regular shaped lots, the applications for a zoning permit shall be accompanied by a drawing to scale showing the actual dimensions as certified by a land surveyor or licensed civil engineer as a true copy of the lot on which the improvement or use is to be placed, accompanied by a drawing to scale of the location on such lot of the proposed building, structure of use, and accessory buildings; and location and height of any fences or landscape screening proposed to be installed.

For one and two-family structures on platted regular shaped lots, the application for a zoning permit shall be accompanied by a dimensioned freehand sketch drawing showing the proposed building, structure or use, nearest distances to lot lines, height of buildings or portions of buildings, and location and height of fences or landscape screening proposed to be installed.

4. The Zoning Officer shall approve or deny the issuance of a zoning permit or a sign permit within ten (10) calendar days of the date of filing for such permit. If not approved within the time limit, the zoning permit shall be deemed to be denied. The Zoning Officer may require, in certain circumstances, that the requested permit application be reviewed by the local Fire Department for its recommendation to the appropriate parties.

SOURCE 96-3,98-23,01-04

5. Such zoning permit or sign permit, once issued, shall be maintained in a prominent location at the premises for which it is issued, and shall not be removed until final inspection and issuance of a certificate of occupancy by the Zoning Officer relative to the zoning permit or until the construction or erection of the sign is complete relative to the sign permit.

6. Work or change in use authorized by zoning permit but not started within ninety (90) days shall require a new permit. Construction or erection of a sign Authorized by a sign permit but not started within thirty (30) days shall require a new permit. Permits issued for new building construction or expansion shall require the completion of the exterior of buildings within three hundred sixty (360) days. A permit shall be revoked and notice of violation issued when it shall be found from personal inspection or competent evidence that the rules or Titles under which it has been issued are being violated.

B. Zoning Certificate of Occupancy Procedure:

1. No building or building addition constructed after the effective date of this Title, shall be used for any purpose until a certificate of occupancy has been issued by the Zoning Officer. No change in use shall be made until such certificate of occupancy shall state that the use of occupancy complies with the provisions of this Title.
2. Every application for a zoning permit shall be deemed to be an application for a certificate of occupancy.
3. No certificate of occupancy for the use of a premises for which a zoning permit has been issued shall be issued until construction has been completed, a final inspection made and the premises certified to be in compliance with the plans and specifications for which the zoning permit was issued. No certificate of occupancy shall be issued to any applicant so long as that applicant is indebted to the village for any prior fees of any type. The zoning certificate of occupancy shall be issued or denied within seven (7) days after the Zoning Officer is notified that the building or premises is ready for occupancy.

C. Variance:

1. The Zoning Board of Appeals, after a public hearing, may recommended to the City Council the varying of the Titles of this Title in harmony with their general purpose and intent only in the specific instances hereinafter set forth, where the Zoning Board of Appeals makes finding of fact in accordance with the standards hereinafter prescribed and further, finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of these Titles.
2. An application for variation shall be filed in writing with the Zoning Officer. The application shall contain such information as the Zoning Board of Appeals may, by rule, require. The Zoning Officer shall arrange proper legal notice, as required by law, and schedule a public hearing before the Zoning Board of Appeals. The required legal notice may be supplemented by such additional form of notice as the Zoning Board of Appeals may, by rule, require.
3. The Zoning Board of Appeals shall not recommend to the City Council varying the requirements of this Title, as authorized by this Section, unless it shall first

make findings of fact based upon the evidence presented to it in each of the following, evidence of which the petitioner is responsible for demonstrating:

- e. That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the Titles governing the zoning district in which it is located.
 - f. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
 - g. That literal interpretation of the provisions of this Title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Title.
 - h. That the plight of the applicant is due to unique circumstances and does not result from the actions of the applicant.
 - i. That granting the variation requested will not confer on the applicant any special privilege that is denied by this Title to other lands, structures or buildings in the same district.
 - j. That the variation, if granted, will not alter the essential character of the locality.
4. No non-conforming uses of neighboring lands or structures, in the same district, and no permitted, special or non-conforming uses of lands or structures in other districts shall be considered grounds for the issuance of a variance.
 5. The Zoning Board of Appeals may require such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the standards set forth in this Section to reduce or minimize the injurious effect of such variation upon other property in the neighborhood, and to implement the general purpose and intent of this Title.
 6. The following situations, and only those situations, are permissible areas in which variations from the requirements of this Title are allowed to be recommended by the Zoning Board of Appeals, and granted by the City Council when in accordance with the standards established in this Section:
 - a. To permit a yard less than required by the applicable Titles.
 - b. To permit the use of a lot of record on the effective date of this Title for a use otherwise prohibited solely because of the insufficient area of the lot, but in no event shall the area of the lot be less than sixty percent (60%) of the required lot area.
 - c. To permit the same off-street parking spaces to qualify as required spaces for two (2) or more uses, provided that the maximum use of such facility by each use does not take place during the same hours of the same days of the week.
 - d. To increase by not more than twenty five percent (25%) the maximum distance that required parking spaces are permitted to be located from the use served.
 - e. To permit a variation in number, size or location of accessory use, accessory area, accessory buildings or structures.
 - f. Nothing herein contained shall be construed to give or grant to the Zoning Board of Appeals the power to recommend through variations, or to the City Council, the authority to alter or change the zoning classifications of the Zoning District Map or to permit a use not otherwise permitted by variation; such power and authority being exercised only by the Zoning Amendment Procedure as outlined subsequently herein.
- D. Appeals Procedure:
1. An appeal may be taken to the Zoning Board of Appeals by any person or by any officer, department, board or bureau aggrieved by a decision of the Zoning Officer. Such an appeal shall be taken within forty five (45) days of the action complained of, by filing with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Zoning Board

of Appeals all the papers constituting a record upon which the action appealed from was taken.

2. An appeal shall stay all proceedings in furtherance of the action appealed unless the Zoning Officer certifies to the Zoning Board of Appeals, after notice of the appeal has been filed with the City Clerk, that by reason of facts stated in the appeal, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed unless by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record in application of the Zoning Officer and on due cause shown.
3. The Zoning Board of Appeals shall select a reasonable time and place for the hearing of the appeal and give notice thereof to the parties, and shall render a written decision on the appeal without unreasonable delay. The Zoning Board of Appeals may affirm or may reverse, wholly or in part, or modify the order, requirement, decision or determination that, in its opinion, ought to be done; and to that end, shall have all the powers of the officer from whom the appeal is taken. The Zoning Officer shall maintain records of all actions of the Zoning Board of Appeals relative to appeals.

E. Zoning Amendment Procedure:

1. Amendments may be proposed by the City Council, the Planning Commission, the Zoning Board of Appeals, or any person, firm, corporation, or organization, provided that any person, firm, corporation, or organization shall have a freehold interest, a possessory interest entitled to exclusive possession, a contractual interest which may become a freehold interest, or any exclusive possessory interest (with the concurrence of the person holding the freehold interest) which is specifically enforceable in the land which is described in the application for amendment. Any proposal shall set forth names of owners of all beneficial interests in any land trusts wherein a land trust is proposing such amendment.
2. An application for an amendment shall be obtained from and filed with the Zoning Officer. Such applications for zoning amendments shall be in a form so that the application, when complete, including required accompanying material, shall provide such information as required by the Planning Commission for its review. Application for amendments initiated by the Planning Commission, Zoning Board of Appeals or City Council shall include a copy of the minutes of that body approving the filing of an application for zoning amendment. Applications for zoning amendments initiated by any person, firm, corporation or organization described above as eligible to petition for a zoning amendment, shall not be considered nor scheduled for public hearing until the zoning amendment fee has been deposited with the City Clerk to partially cover the cost of this procedure, and under no condition shall such sum or any part thereof be refunded for failure of said amendment to be enacted into law.
3. Once an application for an Amendment has been filed with the Zoning Officer, the Zoning Officer shall arrange proper legal notice, as required by law, and schedule a public hearing before the Planning Commission.
4. The Planning Commission shall hold a public hearing on each application for zoning amendment at the time and place scheduled in the public notice. The hearing shall be conducted and a record of proceedings preserved in the manner as from time to time prescribed by the Planning Commission. Where additional information is required for the Planning Commission's review, the Commission, by official action, may continue the hearing to the time and place of the next Planning Commission meeting.
5. Within forty-five (45) days after the close of the hearing on a proposed amendment, the Planning Commission shall make its recommendations to the City Council. On applications for zoning amendments which would change the zoning classification of a particular property, the recommendation shall include

SOURCE 98-11

findings of fact bearing on the decision. Such findings of fact shall relate to matters such as:

- (a) Existing uses of other property within the general area of the subject property;
- (b) Evidenced recent trends in land use development of the general area;
- (c) Any conditions which render the property less desirable or inappropriate for the uses to which it is presently zoned;
- (d) Availability of other areas already zoned for such uses;
- (e) The zoning amendment, if granted, serves the public interest and not solely benefit the property of the applicant alone.
- (f) The amendment would not be inconsistent with the objectives of the Comprehensive Plan.

In its findings of fact and recommendation to the City Council, the Planning Commission may recommend approval or disapproval, or recommend the change of zoning classification of the subject property to any other more restrictive zoning classification than specified in the public notice.

6. The City Council shall not act upon a proposed amendment to this Title until it shall have received a written report and recommendation from the Planning Commission except, however, an absence of action by the Planning Commission within forty five (45) days of the public hearing of the matter shall be deemed to be a favorable recommendation. A favorable vote of two-thirds (2/3) of the Aldermen then holding office shall be required to adopt a zoning amendment not recommended by the Planning Commission.

SOURCE 02-12

7. The City Council, after receiving the recommendation of the Planning Commission, or after the above prescribed time period, if no report is received, and without further public hearing may grant or deny any proposed zoning amendment, or may refer it back to the Planning Commission for further study. In case of a written protest against any proposed zoning amendment signed and acknowledged by the owners of twenty percent (20%) of the frontage proposed to be altered, or by the owners of twenty percent (20%) of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) of the frontage directly opposite the frontage proposed to be altered, as to Titles or district, filed with the City Clerk, such amendment shall not be passed except by the favorable vote of two-thirds (2/3) of the Aldermen then holding office.

SOURCE 02-12

8. The City Council shall cause to be published, no later than March 31 of each year, a zoning district map clearly showing the existing zoning uses, divisions, restrictions, Titles and classifications for the preceding calendar year. If, in any calendar year, there are no changes in the zoning uses, divisions, restrictions, Titles, and classifications, no map need be published for such calendar year. The City Council may establish a fee to be charged each person desiring a copy of such map. Such fee shall be paid to the City Clerk who shall account for such moneys. Such fees shall be applied to defray the cost of publishing the zoning map.

F. Permitted Uses:

1. Applications for special use may be filed by any person having a freehold interest in land or a possessory interest entitled to exclusive possession (with the concurrence of the person holding the freehold interest), or a contractual interest, which may become a freehold interest, or an exclusive possessory interest, which is specifically enforceable.
2. An application for a special use permit shall be obtained from and filed with the Zoning Officer. Such application for a special use permit shall be in a form so that the application, when complete, including required accompanying material, shall provide such information as required by the Zoning Board of Appeals for its review. The accompanying material shall include a written statement signed by

the applicant as to how the standards for the granting of the special use permit are met. These standards shall include:

- (a). That the proposed use will not adversely affect other property developed or able to be developed to the uses already permitted;
 - (b). That adequate utilities, access roads, drainage and other necessary supporting facilities have been or are being provided;
 - (c). That adequate measures have been provided to accommodate ingress and egress so as to avoid congestion, not unduly impede surrounding traffic flows, or create hazardous or unsafe conditions;
 - (d). That the standards for site development, will be such as to enhance the proposed use and its setting, screen or so locate parking, loading, storage, and less attractive accessory uses away from public view, and to otherwise complement the visual appearance of the area in which the proposed project is to be located. The applicant may offer or the Zoning Board of Appeals may require a development plan and landscape and screening plan as part of the applicant's written statement;
 - (e). That the proposed special use, if permitted, will conform to all other requirements of the district in which it is to be located or if not conforming, a listing of necessary variations which will be required subsequent to the granting of the special use by the City Council.
3. Once the special use application has been filed with the Zoning Officer, the Zoning Officer shall arrange proper legal notice as required by law and schedule the public hearing for the next regular Zoning Board of Appeals meeting, which fulfills minimum public notice requirements.
 4. The Zoning Board of Appeals shall hold a public hearing on the proposed special use at the time and place scheduled in the public notice. The hearing shall be conducted and a record of the proceedings preserved in the manner as from time to time prescribed by the Zoning Board of Appeals.
 5. Within forty-five (45) days of the close of the hearing on the proposed special use, the Zoning Board of Appeals shall make its recommendation to the City Council attaching the applicant's signed statement and any other conditions suggested by the Zoning Board of Appeals. The City Council may grant or deny the special use permit and may modify or attach any additional conditions to which the proposed special use would be subject. The granting of a special use by City Council previously denied by the zoning board of appeals requires a 2/3 vote of the City Council in approving such special use.
 6. The granting of a special use by the City Council shall constitute authorization for the Zoning Officer to issue a zoning permit for the proposed use subject to any conditions imposed in the granting.
 7. Special uses approved by the City Council shall be designated on the Zoning Map by a symbol. Failure of the applicant or other subsequent person, individual, firm, or corporation continuing the special use, from continually maintaining the use in a manner complying with the conditions under which the use was granted, shall constitute a zoning violation subject to the penalties of this Title.
In the event of termination of a special use, permitted uses under the applicable zoning classification shall be the only uses allowed and for which required permits may be issued.
 8. Conditions may be imposed upon special uses under this Zoning Ordinance as amended from time to time as follows by recommendation of the Zoning Board of Appeals and approval of the City Council:
 - a. The proposed size of the venture may be limited.
 - b. Number of building units may be limited.
 - c. The number of persons who may live or work in the proposed venture may be limited.
 - d. That any proposed or required landscaping be properly maintained.

- e. That natural drainage of the parcel not be disturbed in any manner detrimental to surrounding property.
- f. That all ordinances of the City of West Peoria be complied with.
- g. That additional buffering be supplied.
- h. That lighting be installed or used in a particular manner.
- i. That approval must be obtained from the Zoning Board of Appeals and the City Council to transfer the special use permit.
- j. That a forfeiture of the special use permit will occur if a violation of the conditions or City ordinances applicable thereto is not corrected within thirty (30) days after written notice of the violation is mailed.
- k. Also, prior to the granting of any special use, the Zoning Board of Appeals may recommend and the City council may place such other conditions and restrictions upon the establishment, locations, construction, maintenance and operation of the special use as it is deemed necessary for the protection of the public interest and to secure compliance with applicable ordinances. In all cases in which special uses are subject to conditions, the Zoning Board of Appeals may recommend and the City Council may require evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

SECTION 2-11-3 INTERPRETATION AND RELATION TO OTHER ORDINANCES AND RESTRICTIONS

In interpreting and applying the provisions of this Title, they shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, morals and general welfare. It is not intended by this Title to interfere with, abrogate, annul or repeal any ordinance, rules or Titles previously adopted and not in conflict with any of the provisions of this Title or which shall be adopted pursuant to law relating to the use of buildings or premises, nor is it intended by this Title to interfere with, abrogate or annul any easements, covenants or other agreements between parties, except that where this Title imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or required larger open spaces than other covenants or other agreements, the provisions of this Title shall control.

SECTION 2-11-4 REPEAL OF PRIOR ZONING TITLES

Upon its adoption and this Title taking effect, any prior existing zoning rules and Titles heretofore applying to West Peoria shall continue in effect, except where the terms of this Title conflict with such rules and regulations, in which case the terms of this Title shall control.

SECTION 2-11-5 PENALTIES

- A. Violations and Penalties: Any person or any entity which violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this Title shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.
- B. City Council May Pursue Additional Remedies to Violations: In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this Title, the proper authorities of the City of West Peoria, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or .about such premises.

SECTION 2-11-6 FEES

An application for an amendment, special use, variation, appeal, or zoning permit, filed by or on behalf of the owner or owners of the property affected shall be accompanied by the appropriate fee which shall be set by the City Council by resolution as it shall deem necessary from time to time. Application for zoning permit shall also be construed as an application for the certificate of occupancy for which no fee is required.