



TEXT AMENDMENT PETITION

TO: City Council, City Clerk, and Mayor of the City of DeKalb, Illinois

FROM: Petitioner Name(s): City of DeKalb Telephone: 815-748-2361
Petitioner's Representative: Dan Olson, Principal Planner Cell: _____
Mailing Address: 200 S. 4th St., DeKalb, IL 60115 Email: dan.olson@cityofdekalb.com

1. The petitioner hereby petitions the City of DeKalb to amend the Unified Development Ordinance as follows – attach additional page(s) if necessary:

A. What is the text amendment regarding?

Various miscellaneous text amendments to the UDO

B. What Article(s) and Section(s) of the Unified Development Ordinance are proposed for amendment?

Articles 7.06, 7.12, 12.03(1), 12.04, 13 and 18.

C. What is the proposed revised text?

See attached

D. Describe the reason for this text amendment request, and what the intended effect will be.

Article 7.06 to further restrict the type of fences allowed, Article 7.12 to change who authorizes traffic studies, Article 12.03(1) to allow alternative paving materials for parking lots and driveways,

Article 12.04 to modify the landscaping and berming requirements for front, side and rear yards, Article 13 to amend the sign regulations to allow off-site directional signage, to provide regulations for wall signs for non-residential uses

located on residential zoned property, to increase the square footage for signs on gas station canopies, modify the window sign regulations, and Article 18 to amend the regulations for the Board of Appeals and for variances.

2. The petitioner hereby submits the Petition Fee (\$500.00).

3. The petitioner hereby states that a pre-application conference *was was not held with City staff prior to the submittal of this petition.

*Date of pre-application conference: NA

Those in attendance: _____

***(Note to Petitioner: A pre-application conference with staff is highly encouraged to avoid delays and help in the timely processing of this petition.)**

4. The petitioner hereby agrees that this petition will be placed on the Planning and Zoning Commission's agenda only if it is completed in full and submitted in advance of established deadlines.
5. The petitioner has read and completed all of the above information and affirms that it is true and correct.
6. Petitioner/property owner(s) hereby give the City of DeKalb permission to post a public notice sign(s) on the subject property.

Dw d
Petitioner Signature

1-8-19
Date

Petitioner Signature

Date

Subscribed and sworn to before me
this 8th day of January, 2019.

stamp

Michelle Jureczek
Notary Public Signature



7.06 Fences

1. For the purposes of this section, there shall be the following types of fences:
 - a. *Open Fence*: A fence in which the openings in the materials of which the fence is constructed represent more than fifty (50) percent of the area of the fence and which do not interfere with visibility, or the free passage of air, through the fence;
 - b. *Privacy Fence*: All fences other than Open Fences.
2. In residential districts, open fences six (6) feet or less in height are permitted in the rear yard, and in the side yard behind the front of the principal structure. Except as provided for elsewhere in this Ordinance, open fences in non-residential districts shall not exceed four feet in height in the front yard, but may be erected to any height anywhere else on a lot.
3. In residential districts, privacy fences six (6) feet or less in height are permitted in the rear yard and in the side yard behind the nearest front of the principal building on the lot, provided that said fence is located at least five feet from any principal building on adjacent property. In commercial or industrial districts, privacy fences are also allowed in the front yard, but not closer to the street than the required building setback line, when providing screening required elsewhere in this Ordinance.
4. Through lots and corner lots with frontage on more than one street (2009-050):
 - a. *Through lots*: On residential lots that are through lots (lots with frontage on one street and the rear yard having frontage on another street) the front and side fence placement shall comply with Article 7.06.2 or Article 7.06.3. The location of the rear yard fence may abut the property line unless the Plat of Subdivision specifically identifies a greater set-back from the property line. Prior to issuance of a Fence Permit, a Certified Plat of Survey must be submitted to the Building and Code [Enforcement](#) Division for review and approval.
 - b. *Corner lots with frontage on more than one street*: On residential corner lots that have frontage on two or more streets, no privacy fences greater than thirty-six (36) inches in height or open fence greater than forty-eight (48) inches in height shall be permitted in the frontage yards (yards that front on the streets). The location of the side and rear yard fence shall comply with Article 7.06.02 or Article 7.06.3 unless the Plat of Subdivision specifically identifies a greater set-back from the property line. Prior to issuance of a Fence Permit, a Certified Plat of Survey must be submitted to the Building and Code [Enforcement](#) Division for review and approval.”
5. The maximum height of an open fence in front of the front building line established by the principal structure shall be forty-eight (48) inches.
6. The maximum height of a privacy fence in front of the front building line established by the principal structure shall be thirty-six (36) inches, unless allowed elsewhere in this Article.
7. Fences may exceed the above stated maximum heights in a Planned Development, Commercial (PD-C) or any Industrial zoning district when approved as part of a landscaping plan, or as part of a buffering or screening requirement as may be provided for elsewhere in this Ordinance. Also, fences (or walls), used as a decorative feature and/or as a backdrop to an identification sign at subdivision, apartment, condominium or planned development entrances, may exceed the above stated maximum heights, if approved by the Community Development Director.
8. Barbed wire shall not be used to constitute any part of a fence in any zoning district except that part of a fence in a side or rear yard, which is at least six (6) feet above the grade, with the barbed wire attached to the fence above six (6) feet and at a 45 degree angle towards the interior of the property, and either:

- a. is used to protect an electric power substation or transformer station;
 - b. is located in an "ORI" Office Research and Light Industrial, "LI" Light Industrial District ~~or in an~~ "HI" Heavy Industrial District, or in a "PD-I" Planned Development – Industrial District;
 - c. is located in a "GC" General Commercial District: except that the use of barbed wire in a "GC" General Commercial District, must be approved by the City Council after a report from the Community Development Director.
9. Fences may be placed at the property line, except no fence shall be erected along, parallel to or substantially parallel to and within five (5) feet of an adjoining property line unless the finished side of the fence faces the adjoining property. If a fence is erected with posts and supports, the side on which the posts and supports are most visible shall be considered the unfinished side. No fence shall be constructed in such a manner or location as to block any natural or planned stormwater conveyance system, nor shall any fence be constructed over or within a stormwater drainage easement.
10. All fences shall conform to the requirements of Section 7.10, "Sight Distance Triangle," of this Article.
- ~~11. Electrified fences are prohibited~~ Prohibited Fences: Electrically charged, chicken wire, permanent snow or any other fence constructed of materials not specifically manufactured for use as a fence or from used or discarded materials in disrepair.
- ~~11.12.~~ 12. Temporary Fencing: Temporary fencing is permitted for construction sites, special events, temporary uses pursuant to Article 14.07, and for public safety requirements as determined by the Chief Building Official.

7.12 Traffic Access and Impact Studies

7.12.01 Purpose and Intent

The regulations provided in this Section are necessary to assist developers, property owners and the City Council in making decisions regarding the traffic and transportation aspects of various land use, subdivision and site plan proposals. These regulations are also necessary to provide the City Council with a basis for estimating street and road improvement requirements attributable to a particular proposal.

7.12.02 Warrants for Studies

1. A traffic access and/or impact study may be required to be prepared or cause to be prepared by any person submitting a rezoning, special use permit, planned development, subdivision, annexation agreement, building permit or occupancy permit application where, in the opinion of the City ~~Council after receiving a recommendation from the Public Works Director~~Engineer, the likely resultant development will generate one hundred (100) or more new peak direction trips to or from the subject property during the adjacent street's peak hours or the development's peak hour. This opinion shall be based on a submittal from the applicant establishing the average trip generation rates published by the Institute of Traffic Engineers (ITE) in their most recent trip generation manual or in any locally published traffic and trip generation data report. (2017-044)

In the event that the estimated trips will fall below the one hundred (100) level, the City ~~Council after receiving a recommendation from the Public Works Director~~Engineer may still require the preparation of a traffic access and/or impact study if, in their opinion: (2017-044)

- a. There exist any current traffic problems in the local area, such as a high accident location, confusing intersection or an intersection in need of a traffic signal;
 - b. The adjacent street system's current or projected level of service will be significantly affected;
 - c. The site's accesses are in such a location that their proximity to other accesses, drives, intersections, etc. will likely cause significant traffic congestion or hazard potential;
 - d. There exists other specific problems, deficiencies, neighborhood sensitivities, etc. that may be affected by the proposed development or affect the ability of the development's traffic to be satisfactorily accommodated.
2. The City ~~Council, after receiving a recommendation from Public Works Director~~Engineer may waive the requirement for a traffic access and/or impact study if, in their opinion, there exists a previously conducted study that adequately addresses the traffic concerns of the area, or there exists adequate physical facilities to accommodate the projected level of traffic. (2017-044)

7.12.03 Procedures

1. The study shall be prepared by any person with demonstrated experience in conducting traffic studies. The study shall be prepared in accordance with the guidelines and recommendations found in the most recent version of the ITE's report entitled, "Traffic Access and Impact Studies for Site Development," or other mutually acceptable report or guideline. ~~Said ITE report is available in the Public Works Department.~~ (2017-044)
2. The study preparer shall discuss the parameters under which the traffic access or impact study will be conducted with the ~~Public Works Director~~City Engineer. These parameters include, but are not limited to, the size of the study area, the extent of the study (a full study, partial study, etc.), the level of detailed analysis, various techniques that are to be used, etc. (2017-044)

3. The study shall be submitted along with the documentation required for the rezoning, special use permit, planned development, subdivision, annexation agreement, building permit, or occupancy permit applications. The ~~Public Works Director~~City Engineer shall review and report on the study and its recommendations within the time period prescribed for reviewing the above-mentioned applications. (2017-044)
4. Where said applications require Planning and Zoning Commission or City Council approval, then the traffic study, ~~its recommendations and a report and~~ and recommendations from the ~~Director of Public Works~~City Engineer shall be forwarded to the Planning and Zoning Commission or City Council for their review and ~~recommendations~~concurrences. Where the report's or Staff's recommendation identifies the need for street widening, traffic light improvements, right-of-way increases, etc., then the Planning and Zoning Commission shall recommend and the City Council shall decide whether such widening, improvements, increases, etc. are necessary; and if so, whether the costs associated with them shall be borne solely by the applicant, by the City or by a combination of the applicant and the City.

12.03 Design and Locational Requirements

1. Construction Requirements – Commercial/Industrial/Multi-Unit Residential (excluding townhome units with individual direct access to the street): Loading areas, parking lots, driveways, access ways and any other areas on which motor vehicles are parked or stored, or which are used for motor vehicle circulation, or used for the storage or parking of any other vehicle and/or trailer, shall be constructed ~~with~~ of either ~~a~~ Portland cement Concrete or bituminous concrete ~~Bituminous Concrete, or Concrete Pavers~~, which materials shall conform to the specifications (if applicable) contained in the most recent edition of the Standard Specifications for Road and Bridge Construction, adopted by the Illinois Department of Transportation. The above materials shall meet the following minimum requirements:

Portland Cement Concrete: Six (6) inches thick of PCC pavement, over six (6) inches of gravel or crushed stone base (CA-6).

Bituminous Aggregate Mixture: Six (6) inches thick.

Bituminous Concrete: Eight (8) inches of gravel or crushed stone base (CA-6) with two and one-half (2-1/2) inches of bituminous concrete surface, over eight (8) inches of gravel or crushed stone base (CA-6).

Concrete Paver: three (3) inch unit depth, over a minimum of eight (8) inches of clean crushed stone base with an allowable additional two (2) inches of fine setting material.

a. Aesthetic Design of Concrete Pavers

Paver color/tone shall be traditional ranges of red, gray, or brown and should coordinate with adjacent streetscaping; unless approved in writing by the Community Development Director.

b. Permeable Design of Concrete Paver

- 1) Permeability of design is NOT required in order to allow paver use in general. However, if storm water runoff reduction is desired, the design/construction shall meet the following requirements.
- 2) Permeable pavers can be used where the underlying in-situ subsoils have an infiltration rate of 0.5-3.0 inches per hour; underdrains and pipe discharges may be provided to achieve suitable hydrologic site conditions.
- 3) Permeable pavers will be used in applications where the pavement receives tributary runoff primarily from impermeable areas. The ratio of the contributing impermeable area to the permeable paver surface area should be no greater than 3:1.
- 4) A minimum of two (2) feet of clearance is required between the bottom of the base course and underlying bedrock or the seasonally high groundwater table.
- 5) Permeable pavers should be sited at least ten (10) feet down gradient from buildings and 100 feet away from drinking water wells.
- 6) The stone aggregate used should be washed, crushed stone, 0.75-1.0 inches in diameter with a void space of about 40 percent. A porosity value (void space/total volume) of 0.32 should be used in calculations.
- 7) The base course must have a minimum depth of eight (8) inches. The following equation can be used to determine if the depth of the base course layer needs to be greater than the minimum depth to accommodate hydrologic storage.

$$D = \frac{V}{An}$$

Where:

D = Base Layer Depth (feet)

V = Total Volume to be Infiltrated

A = Surface Area (square feet)

N = Porosity (use n = 0.32)

8) For permeable paver applications, the large size of the No. 57 aggregates creates an uneven surface when compacted. To provide a smooth and level surface for the placement of the pavers, a bedding course of ASTM No. 8 crushed aggregate is placed and compacted into the No. 57 open-graded base. The thickness of the No. 8 bedding layer should not exceed two (2) inches prior to- compaction.

9) All of the materials need to be clean, washed material with less than 1-2% passing the No. 200 sieve.

2. Construction Requirements – Single Family and Two Family Structures in Single Family and Two Family Residential Districts: Driveways, access ways and any other areas on which motor vehicles are parked or stored, or the storage or parking of any other vehicle and/or trailer, shall be constructed of either Portland Cement Concrete, Bituminous Concrete, or Concrete Pavers, which materials shall conform to the specifications (if applicable) contained in the most recent edition of the Standard Specifications for Road and Bridge Construction, adopted by the Illinois Department of Transportation. The above materials shall meet the following minimum requirements:

Portland Cement Concrete: Four (4) inches of PCC pavement, over six (6) inches of gravel or crushed stone base (CA-6).

Bituminous Concrete: Two (2) inches of bituminous concrete surface, over six (6) inches of gravel or crushed stone base (CA-6).

Concrete Paver: Three (3) inch unit depth, over a minimum of four (4) inches of clean crushed stone base with an allowable additional one (1) inch of fine setting material.

a. Aesthetic Design of Concrete Pavers

Paver color/tone shall be traditional ranges of red, cray, or brown and should coordinate with adjacent streetscaping; unless approved in writing by the Community Development Director.

b. Permeable design encouraged, but it NOT considered for individual stormwater runoff parcel impacts.

2.3. Vehicular Access and Circulation:

a. An off-street parking, loading or storage facility shall be provided with an appropriate means of vehicular access (conforming to Chapter 6 of the Municipal Code of the City of DeKalb) to an improved street or alley which will least interfere with traffic and pedestrian movements. Such facilities shall be designed to avoid motor vehicles backing onto or into streets, alleys or sidewalks. Existing curb cuts, curb cut radii and driveways across public right-of-way shall only be used if they comply with the applicable standards for new curb cuts, curb cut radii and driveways.

- b. Such facilities shall be so designed, maintained and regulated so that no parking (including parking or stopping of vehicles in loading spaces) or maneuvering incidental to parking shall be on any public street, walk or alley.
- c. The location of any entrance or exit for any off-street parking area shall be as approved by the City Engineer or his/her designee.
- d. All parking lots shall be striped and marked to provide a visible indicator of the most effective way of parking and moving all vehicles. All striping and marking shall be approved by the City Engineer or his/her designee.
- e. Vehicular traffic to, from and within an off-street parking or loading area shall be controlled by appropriate traffic control signs, surface markings and curb islands. All parking areas which will, in the opinion of the City Engineer or his/her designee, generate a high volume of traffic movement shall have its entrances clearly marked and designated as to direction of traffic flow or other conditions of use of the access driveway by the use of low-profile signs. Such signs shall not exceed five (5) feet in height, nor six (6) square feet in area in commercially zoned areas or six (6) feet in height, nor twelve (12) square feet in area in industrially zoned areas (1993-070). Such signs shall be placed on private property outside the public right-of-way. There shall not be more than two (2) such signs for each entrance or exit. Such parking areas may also necessitate the preparation of a traffic access and impact study as provided for in Section 7.12, Article 7, "Supplementary District Regulations."

3.4. Drainage: Proper drainage and grading shall be provided for all parking lots to dispose of all runoff water. In no case shall drainage be allowed to drain across any public sidewalk within a public right-of-way. For any parking area in excess of five (5) spaces or any loading area in excess of 2,500 square feet, all runoff water shall be discharged via an appropriate storm sewer or other approved drainage system. All storm drainage facilities shall be designed using the "Rational Method" for a storm of a minimum of a ten (10) year frequency. Storm sewer calculations shall accompany all systems designs in excess of the above noted minimum parking or loading area and shall be in accordance with Article 11, "Floodways, Floodplains, Stormdrainage and Erosion."

4.5. Location of Parking Facilities: Location of required off-street parking shall be provided on the same parcel of land occupied by the use or building to which it is appurtenant, except as provided for in paragraph "b" below. In the event that there are practical difficulties in satisfying the requirement for parking space and/or if the public safety or convenience would be better served by another location, the Council may authorize an alternate location by ordinance through approval of a plat, plan, special use permit, rezoning or other formal action. If parking is to be located elsewhere than on the lot which the principal use is located, then the "off-site" property occupied as parking shall be in the same possession (either by deed or by long-term lease which has a term equal to or exceeding the projected life or term of lease of the facility) as the owner of the principal use. Furthermore, the owner of property used for off-site parking shall be bound by covenants filed on record in the Office of the County Recorder, requiring the owners, heirs or assigns to maintain the required number of off-street parking spaces during the existence of such principal use utilizing the property for parking.

- a. For residential dwelling units, community residences, fraternities and sororities, group homes, lodging houses and rooming houses, parking shall be provided on the same lot with the building they are required to serve. For the purpose of this requirement, a group of those uses constructed and maintained under single ownership or management shall be considered to be on a single lot or parcel of land;
- b. For all other uses, parking shall be provided on the same lot or parcel of land as the building they are required to serve, or on a separate lot or parcel of land not more than three hundred (300) feet from the nearest entrance to the principal building being served, provided the lot or

parcel of land is located in a zoning district that allows the parking lot, either as a permitted or special use, and otherwise in compliance with this Ordinance.

5.6. Setbacks of Parking Facilities:

- a. Notwithstanding other requirements of this Ordinance, and except for parking associated with single-family and two-family residential districts, all parking areas and driveways may be located in a required front yard, side yard or rear yard provided that a minimum five (5) foot setback be maintained between the parking area and the property lines, and a minimum ten (10) feet setback shall be maintained between the parking area and the street right-of-way line. The interior boundary of such parking area setback shall be defined with six (6) inch concrete curbing or other curbing material approved by the City Engineer. However, in no instance shall a parking lot be located in a required buffer area.
 - 1) *Exception:* Where the proposed parking area will be located within the side yard or front yard adjacent to a similarly zoned property and where internal access will be provided between the two properties, the five (5) foot side-yard setback requirement shall not apply.
 - 2) *Exception within the "CBD," Central Business District:* Where the proposed parking area is on property zoned "CBD" Central Business District, the setback may be reduced in width in accordance with Article 12.04, paragraph 5, and if, in the opinion of the City Engineer, the parking lot is designed so that no portion of any vehicle, when parked, will project across adjacent property or into adjacent public rights-of-way.
- b. No loading space or vehicle storage areas shall be closer than fifty (50) feet to any property in a residential district unless said space is completely enclosed by a building or separated from the adjacent property by a building, or an extension of the building wall. No loading space or vehicle storage area shall be located within any area where parking is prohibited by this Ordinance.
- c. Within the residential zoning districts, no motor vehicle, recreational vehicle, camper, trailer or similar vehicle shall be permitted to be parked anywhere on the lot unless said vehicle is parked upon a driveway. Said driveway and its use shall conform to all of the following standards:
 - 1) The driveway shall not be wider than forty (40) percent of the width of the lot on which the driveway is located or thirty-six (36) feet, whichever is less;
 - 2) The driveway shall not cover more than forty (40) percent of the required front yard setback area;
 - 3) The driveway shall be constructed with materials as provided for in Article 12.03, paragraph 1 of this Ordinance;
 - 4) The driveway shall access an adjacent street with an appropriate curb cut as determined by the City Engineer or his/her designee;
 - 5) In all instances, no vehicle shall park so as to have any portion of said vehicle located within five (5) feet of an adjacent street right-of-way; and
 - 6) In all instances, no vehicle shall park so as to reduce the open width of any driveway giving access to a building containing more than two (2) dwelling units or in a structure that requires a rooming house license which restricts traffic flow to less than fourteen (14) feet.
- d. Within the residential zoning districts, no motor vehicle, recreational vehicle, camper, trailer, or similar vehicle may be stored anywhere on the lot unless stored inside an enclosed building or on an approved surface constructed of materials in compliance with Article 12.03, paragraph

1, of this Ordinance. Further access shall be provided to this storage area via an approved driveway constructed of an approved surface constructed of materials in compliance with Article 12.03, paragraph 1, of this Ordinance.

No such vehicle shall be stored in a front yard.

For the purposes of this Article, “stored” shall mean “parked” without being moved for a period of thirty days or more. This Article shall apply regardless of whether the vehicle is licensed, unlicensed, operable or inoperable.

6-7. Compact Vehicle Parking Space Allowance: For multiple family developments (including rooming houses, fraternities, sororities and dormitories), off-street parking spaces shall conform to the size required for full-sized vehicles (see Section 12.06 of this Article). However, not more than twenty-five (25) percent of the spaces for vehicles may be reduced in size for compact vehicles, provided that, in as much as possible, such smaller spaces are located in a single contiguous area that is clearly marked as being for small or compact vehicles only. These compact parking spaces shall be no less than seven (7) feet, six (6) inches wide (for all space angles) and an equivalent perpendicular depth of seventeen (17) feet. Aisle widths shall be in accordance with the specifications contained in Section 12.06 of this Article

7-8. Lighting Requirements: See Article 10, “Utilities,” Section 10.05.

12.04 Landscape Requirements

It is the purpose and intent of these regulations to provide adequate protection for contiguous property against undesirable effects caused by the creation and operation of parking and loading areas, and to protect and preserve the appearance and character of the surrounding neighborhoods through the screening effects and aesthetic qualities of such landscaping, and to provide shade for parking and to visually and physically break up major expanses of asphalt into a more human scale. As such, all parking and loading areas for any uses other than single family homes (attached or detached) or duplexes, constructed after the date of this Ordinance, shall be properly screened and landscaped as hereinafter described.

1. *Definitions:* For purposes of this Ordinance, landscaping shall mean living green plants ~~in~~ combination in combination of trees and either shrubs or ground cover, all of which are defined as follows:
 - a. Deciduous trees having, at the time of planting, not less than a two and one-half (2-1/2) inch caliper measured on the trunk six (6) inches above the ground;
 - b. Ornamental trees having, at the time of planting, not less than one and one-half (1-1/2) inch caliper measured on the trunk six (6) inches above the ground;
 - c. Evergreen trees having, at the time of planting, a height of not less than four (4) feet;
 - d. Shrubs having, at the time of planting, a height of not less than two (2) feet;
 - e. Ground cover which includes grass, ivy, juniper, wood mulch, decorative or aggregate rock, or other approved pervious surfaces.
2. All parking lots, loading, storage and maneuvering areas for any uses other than single family homes (attached or detached) or duplexes shall comply with these regulations. These landscaping regulations shall apply to single family or two-family homes located in other than a residential zoning district, if the property is also occupied by another principal use otherwise required to comply with these regulations.
 - a. *Landscape Plan Required:* The engineered site plan (required per Article 17) and/or Planned Development plan for any parking lot required to include landscaping as provided herein, shall also include a landscape plan. The landscape plan is subject to the approval of the Community Development Director. The landscape plan shall be prepared by a State of Illinois Registered Landscape Architect, Landscaping Design/Build firm or similar Landscape Professional, and shall include the following:
 - 1) The plan shall be based upon engineered site plan and shall be prepared at the same scale as the site plan.
 - 2) The plan shall show the location and dimensions of all existing vegetation, existing and proposed structures, parking lots, drives, loading storage and maneuverings areas, roadways and right of way, sidewalks, bike paths, signs, refuse disposal areas, easements, locations of underground utilities (existing and proposed), locations of easements, and all other information otherwise required on the engineered site plan.
 - 3) The location and square footage of all landscaped areas, the type of ground cover, the location, quantity, size, root ball condition (B/B or potted) and type, both scientific and common name of all proposed plant materials, ground covers, trees, shrubs and other.

- 4) Location of all existing landscaping materials proposed to be conserved and details of protection for those materials during the construction process.
 - 5) Cross sections, locations and details of all grade changes, such as berms, including proposed contours at one-foot-one-foot intervals and percent of slope;
 - 6) Selection, planting and installation specifications complying with the American Association of Nurserymen's standards, with plant species and materials of a good quality and capable of thriving in the north central Illinois climate and the individual microclimates of the site. Salt tolerance for parking lot landscaping materials is imperative.
 - 7) Details and location of irrigation system controls, connections, lines, sprinkler or soaker heads, etc., designed in such a way so as to avoid conflicts with other utilities and to avoid future maintenance problems either with the landscaping, the irrigation system itself, or other site improvements.
- b. *Pedestrian Areas:* Parking lot landscaped areas which are expected to receive high levels of pedestrian traffic shall be improved with stepping stones, sidewalks, or appropriate pedestrian improvements to minimize maintenance problems and to create safe havens for pedestrians, subject to the approval of the Community Development Director. Such areas would include the landscaped islands between the parking lot and the major entry or entries to the building. Such areas shall not be covered with mulch, decorative rock or gravel. Further, these areas shall not be allowed where the intent of creating such areas would otherwise circumvent the intent of this Ordinance. Therefore, any areas consisting strictly of an impervious cover shall not count toward the required parking lot landscaping. However, such areas will count if improved with appropriate ground covers and other landscaping, in addition to the pedestrian use areas.
 - c. *Conflict with Utility Easements:* All parking lot landscaping required herein shall be provided in areas where it shall not conflict with any utility easements. In cases where the proposed landscaping conflicts with an existing or proposed utility easement, the requirements of this Ordinance shall not be waived. Options in such instances would include relocation of the easement, and/or expansion of the proposed landscaping area, either of which is subject to the approval of the Community Development Director.
 - d. *Waiver:* The Community Development Director may waive the requirement for a Landscape Professional's plan in instances where the engineered site plan is not required, or in instances where the parking lot contains thirty (30) or fewer parking stalls. This does not waive the requirement to prepare a plan, nor does it waive the requirement to install the landscaping.
3. *Landscaping Requirements Adjacent to Streets.* Where any parking lot lies adjacent to or is visible from any public or private street, the entire frontage along said parking or loading area, excluding curb cuts or other access ways shall be landscaped and screened as follows:
 - a. One (1) tree and four (4) shrubs shall be planted for every thirty (30) feet of frontage to be located within a strip of land paralleling the adjacent street and having a width of not less than ten (10) feet. Trees do not have to be placed thirty (30) feet on-center (except see Article 6, Section 6.02, "South Annie Glidden Road Corridor Overlay District"). Strategic grouping of trees and shrubs is encouraged.
 - b. The landscaped strip of land paralleling the adjacent street shall be located on private property. The City Engineer and/or the official of the public agency having jurisdiction may permit this landscaped area to occur within the public right-of-way if it can be satisfactorily demonstrated that no reasonable alternative exists for its location on private property.
 - c. This landscaped strip shall not be substantially impeded by utility easements or other encroachments which would negatively affect the intent of this Article. If existing easements would negatively affect the intent of this Article, said landscaped strip shall be located between

the parking area and the right of way in such a manner as to fulfill the intent of this Article, which shall be subject to the approval of the Community Development Director.

- d. A maximum of fifty (50) percent of the required number of trees may consist of a mix of ornamental and evergreen trees.
 - e. In addition to the required number of trees and shrubs earth sculpting, berms, or decorative screening fences or walls shall be installed on private property along the frontage of the adjacent street to a height of not less than three (3) feet above the grade of the parking area and, in the opinion of the Community Development Director, are designed to effectively screen the parking area yet avoid erosion, drainage, maintenance or visibility problems. In lieu of earth sculpting, berms or decorative screening, fences or walls, the frontage may be 100 percent screened with shrubs that reach a height of three (3) feet at the time of maturity.
 - f. No landscaping, hedge, wall, fence or berm that exceeds twenty-four (24) inches in height shall be located within ten (10) feet of any driveway opening nor otherwise located so as to interfere with the visibility of vehicles or pedestrians (see Article 7, "Supplementary District Regulations").
4. *Landscaping Requirements for Side and Rear Yards:* When any vehicle parking lot, storage or loading area is adjacent to a side or rear yard and landscaping is not otherwise required pursuant to Article 7, the side or rear yard setback area shall be landscaped as follows:
- a. A minimum of one (1) tree and four (4) shrubs shall be planted for every thirty (30) lineal feet of yard located parallel to and adjacent to the property line. Trees do not have to be placed thirty (30) feet on-center. Trees shall include an equal mix of deciduous, decorative and evergreen varieties. Strategic grouping of trees and shrubs is encouraged.
 - b. A berm with a minimum height of three feet may be included as part of the landscaping requirement, in lieu of the shrubs, provided the berm is designed with side slopes not exceeding 3:1 and will not create any drainage or maintenance problems. Said berm shall be finished in an appropriate live ground cover.
 - c. *Alternative Option:* A continuous hedgerow with a minimum height of 3 feet at the time of planting, consisting of evergreen species with dense vegetation, so as to effectively provide a continuous screen of the area.
 - d. *Exception:* This requirement shall not apply when the side yard setback is waived per paragraph 5 a (1), above.
5. *Landscaping Requirements for Interior Areas.* Any parking lot having sixty (60) or more parking spaces shall be further landscaped as follows:
- a. A minimum of twenty (20) square feet of interior landscaped areas shall be provided for each parking space. The landscaping shall be in one or more areas so as to break up the apparent expanse of the parking area, and so far as practicable, in such a way so as no aisle contains more than twenty (20) parking stalls without including a landscaped island. In order to qualify as an interior landscaped area, said area shall be located wholly within or projecting inward from the boundaries of the parking area. The setback area landscaping, as provided in Sections 2 and 3, above, shall not qualify as an interior landscaped area, regardless of its width or depth.
 - b. Individual interior landscaped areas shall have a minimum area of fifty (50) square feet and a minimum width of nine (9) feet. One (1) tree shall be planted for every four hundred (400) square feet of the aggregate total of all interior landscaped areas. Trees shall be evenly spaced whenever possible.

- c. A maximum of fifty (50) percent of the required number of trees may consist of a mix of ornamental and evergreen trees.
6. *Additional Requirements for Large Parking Lots:* When any parking lot contains three hundred (300) or more parking stalls, or exceeds the minimum parking required by the UDO by thirty (30) percent or more, the following additional landscaping requirements shall apply:
 - a. The minimum size standards for all trees shall be increased as follows:
 - 1) Deciduous trees shall be not less than three and one-half (3-1/2) inches caliper;
 - 2) Decorative trees shall be not less than two and one-half (2-1/2) inches caliper;
 - 3) Evergreen trees shall be not less than six (6) feet in height.
 - b. In addition to the interior landscaping required in paragraph 3, above, there shall be one landscaped strip, located between parking rows and parallel to the primary driving aisles, and running the length of the parking row, for each four (4) rows of parking or fraction thereof. For the purposes of this paragraph, one parking row shall include one driving aisle with parking stalls on one or both sides. These landscaped strips shall meet the following criteria:
 - 1) The landscaped strip shall have a minimum width of ten (10) feet
 - 2) The strips shall be located along the longest rows of parking, and if possible in such a way so as to frame the primary entrance(s) to the building;
 - 3) The strips shall be landscaped with a ground cover, and shall include one deciduous tree with a minimum caliper of three and one-half (3-1/2) inches for each thirty (30) feet in length, or portion thereof;
 - 4) The landscaped strips may include sidewalks or walkways, subject to the approval of the Community Development Director, and provided that the intent of these areas to provide additional landscaping is not circumvented;
 - 5) No part of the landscaped strips shall be included as part of the required interior or perimeter parking lot landscaping
 - 6) For parking lots exceeding the minimum parking standards of the UDO by thirty (30) percent or more, the interior landscaping shall be increased to thirty (30) square feet per parking stall, not including the perimeter landscaping or the landscaped strips required above, for each stall that exceeds the UDO minimum requirements.
7. Landscaping Requirements for Parking Lots Adjacent to Residentially Zoned Property. See Section 7.05, Article 7, "Supplemental District Regulations."
8. *Exception in "CBD," Central Business District:* Where a proposed parking lot is located on property zoned "CBD," Central Business District, the location and minimum dimensions of the required parking lot landscaping areas, whether perimeter or interior, may be adjusted and/or relocated to any combination of perimeter and/or interior landscaped areas, provided that the cumulative landscaped area and number of trees and plants is equivalent to what would otherwise be required, and the required landscaping is still located within or around the parking area(s). (1996-042).
9. *Landscaping requirements for loading and storage areas, and all other vehicular use areas:* In order to minimize the effect of large expanses of asphalt, all loading, storage, and vehicle maneuvering or other use areas not otherwise required to provide interior landscaping shall comply with the following:

- a. One tree shall be provided for each two thousand five hundred (2,500) square feet of such area;
 - b. Fifty (50) square feet of landscaped area shall be provided for each two thousand five hundred (2,500) square feet of such area;
 - c. The landscaped area and trees are in addition to the other landscaping required on the site, and shall not be expected to be located within the vehicle maneuvering areas, but rather, shall be located along the periphery of such areas or elsewhere on the site.
10. *Maintenance of Landscaping and Screening:* All landscaping and screening shall be installed and permanently maintained as follows:
- a. All new landscaped areas shall be installed within six (6) months after the occupancy or use of the building or premises. Dead plant materials shall be replaced in a timely fashion with living plant material, taking into consideration the season of the year, and shall have at least the same quantity and quality of landscaping as initially approved.
 - b. All landscaping and screening shall be maintained in a healthy, neat, trimmed, clean and weed-free condition. Landscaped areas shall be covered with either grass and/or other types of pervious ground cover located beneath and surrounding the trees and shrubs.
 - c. Landscaped areas within and immediately adjacent to an off-street parking or loading area shall be protected from the encroachment of motor vehicles by placing, along the entire perimeter of the landscaped area, a six (6) inch concrete curb or other curbing material approved by the City Engineer and/or designee.
11. *Exception for residential uses:* No landscaping shall be required for any single family or two-family residence located within a residential zoning district, regardless of the number of parking spaces, storage areas or loading areas. Said exception shall not apply if the dwelling is not the principal use of the property.
12. *Exception for industrial and commercial uses:* These landscaping requirements shall not apply to existing parking lots for industrial or commercial properties which were legal at the time the parking areas were constructed, nor shall the new requirements set forth in this amendatory ordinance of 2002 apply to any Planned Development - Commercial or - Industrial which has an approved Preliminary Plan prior to the effective date of this amendatory ordinance of 2003. However, the new requirements shall apply to any expansion or redevelopment of any parking lots for said uses, and/or any formal amendments to an approved Preliminary Plan to the degree that compliance is possible. In the case where compliance with specific terms is not possible, the equivalent quantity of landscaping may be required to be placed elsewhere on the property. The Community ~~Development Director~~Development Director shall have the ultimate determination of the degree of compliance that is possible.

16.03.01 Legislative Procedures

It is the purpose of these off-street parking and loading regulations to reduce the congestion on the streets due to excessive use for parking and loading of motor vehicles, to provide for appropriate areas for vehicle parking, loading and storage of motor vehicles and other vehicles and trailers, and to assure that said areas are compatible with the intent and purpose of the underlying zoning districts. Further this Ordinance is intended to improve the appearance of said off-street parking, loading and storage areas and protect and preserve the appearance, character and value of the surrounding properties and streets by providing for the installation and maintenance of landscaping, screening and buffering.

1. *Amendments:* In considering proposed changes in the text of this Ordinance or in the official Zoning District Map, the City Council acts in its legislative capacity and must proceed in accordance with the requirement of Article 20, "Amendments."
2. *Ordinance Interpretations and Variances:*
 - a. In accordance with *Illinois Compiled Statutes*, the ~~Board of Appeals~~Planning and Zoning Commission has been delegated the authority to hear and decide appeals from decisions made by the ~~City Manager~~Community Development Director or his/her designees. The City Council does not have jurisdiction on interpretation of this Ordinance, except as provided for in paragraph "c" below.
 - b. The City Council delegates its authority to grant variances, except as provided for in paragraph "c" below, from the provisions of this Ordinance to the ~~Board of Appeals~~Planning and Zoning Commission in accordance with the requirements of Article 18, "Appeals and Variances."
 - c. The City Council reserves to itself the authority to grant variances from the provisions of Article 9, "Streets, Sidewalks and Subdivision Design," and Article 10, "Utilities," and Article 11, "Floodways, Floodplains, Stormdrainage, and Erosion," in accordance with the provisions contained in said Articles.

ARTICLE 18

APPEALS AND VARIANCES

18.01 ~~Board of Appeals~~ Planning and Zoning Commission

The ~~Board of Appeals~~ Planning and Zoning Commission has been duly established by the City Council of DeKalb, Illinois, ~~as set forth in Chapter 21 of the DeKalb Municipal Code.~~ Except as provided for in Article 16, "Administration and Enforcement," the ~~Board of Appeals~~ Planning and Zoning Commission is authorized to take action on appeals and variances with regard to this Ordinance and other applicable Illinois State Statutes. Rules and procedures governing the conduct of the ~~Board~~ Commission are contained in its adopted bylaws and as may be amended from time to time.

18.02 Appeals

An appeal may be taken to the ~~Board of Appeals~~ Planning and Zoning Commission by any person aggrieved, or by an officer, department, board or commission of the City affected by a decision of the ~~Chief Building Official~~ Community Development Director or designee ~~or other City staff member~~ relative to this Ordinance. Such appeal shall be taken within forty-five (45) days of the action complained of by filing with the ~~Chief Building Official~~ Community Development Director or designee a notice of appeal, specifying the grounds thereof and by paying a fee to the City of DeKalb of such amount as may be established from time to time by the City Council. The ~~Chief Building Official~~ Community Development Director or designee shall forthwith transmit to the ~~Board~~ Commission all of the papers constituting the record upon which the appeal action was taken.

An appeal shall stay all proceedings in furtherance of the action that has been appealed, unless the ~~Chief Building Official~~ Community Development Director or designee certifies to the ~~Board of Appeals~~ Planning and Zoning Commission, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by a court of record on application, on notice to the ~~Chief Building Official~~ Community Development Director or designee and on due cause shown.

The ~~Board~~ Commission shall hear appeals under this Ordinance and as to any such appeal shall follow the rules herein contained.

18.02.01 Hearing Required

The ~~Board~~ Planning and Zoning Commission shall hear an appeal at one of their regularly scheduled meetings and give due notice thereof to the parties and shall render a decision of the appeal without unreasonable delay. No hearing shall be held upon an appeal unless the parties thereto receive at least seventy-two (72) hours' notice of such hearing. Any party to the proceeding may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

18.02.02 Decision

1. The ~~Board~~ Commission may reverse or affirm wholly or partly or may modify or amend the order, requirement, decision, or determination appealed from to the extent and in the manner that the ~~Board~~ Commission may decide to be fitting and proper, and to that end the ~~Board~~ Commission shall also have all the powers of the officer from whom the appeal is taken.

The concurring vote of four (4) members of the ~~Board~~ Commission shall be necessary to reverse any order, requirements, decision or determination of the ~~Chief Building Official~~ Community Development Director or designee ~~or other City staff member~~ or to decide in favor of the applicant.

2. All final orders, requirements, and decisions of the Board-Commission shall bear the signature of the Chairman (or Acting-Vice-Chair Chairman if the Chairman is unavailable). It shall be the duty of the secretary of the BoardCommunity Development Director or designee to give proper notification of the final orders, requirements, and decisions and draft them if so instructed by the BoardCommission.

18.03 Variances

When a property owner shows that a strict application of the terms of this Ordinance relating to the construction or alteration of buildings or structures imposes upon him practical difficulties or particular hardship, then the Board-Commission may determine and vary their application of the regulations of this Ordinance in harmony with their general purpose and intent when the Board-Commission is satisfied under the evidence heard before it that a granting of such variation will not merely serve as a convenience to the applicant, but is necessary to alleviate some demonstrable hardship or difficulty so great as to warrant a variation from the strict letter of the regulations of this Ordinance. No variance shall authorize a use not among the uses specified by this Ordinance, as permitted in the zoning district in which such property is located.

18.03.01 Hearing Required

No variation shall be made by the Board of AppealsPlanning and Zoning Commission except after a public hearing of which notification of time and place of the hearing shall be provided in the following manner:

1. At the time of submitting an application for a variance, the applicant shall furnish to the City a list of owners and their mailing addresses of all property within two hundred fifty (250) feet of the property that is the subject of the proposed variance. This distance shall be measured in all directions from the boundaries of the subject property and shall not include distances devoted to adjoining or nearby public rights-of-way. In all instances, the furnished list shall include the names and addresses of a minimum of ten (10) property owners. Should the two hundred fifty (250) foot notification area not result in list of ten (10) property owners, then the notification area shall be appropriately expanded until this minimum has been met. In expanding the notification area, preference shall be given towards those properties comprised of urban-sized lots or in areas most likely to be affected by the proposal.
2. –The Community Development Director or designee shall be responsible for preparing a public hearing notice providing the time, date, and place of the required public hearing, along with a summary of the request and legal description of the property that is the subject of the hearing. The public hearing notice required by this section does not need to include a metes and bound legal description of the area proposed for the variance if the notice includes a common street address or addresses and the property index number (PIN) or numbers of all the property proposed for the variance. The applicant shall publish the public hearing notice at least once in a newspaper having general circulation in the City of DeKalb not more than thirty (30) nor less than fifteen (15) days before the hearing date.
3. The applicant shall mail a notice of the public hearing to those property owners within two hundred fifty (250) feet of the subject property. Notice of the public hearing shall be mailed to all applicable governmental agencies, including but not limited to: School District, Park District, Kishwaukee Water Reclamation District, Township, Drainage District and Soil and Water Conservation District.

18.03.02 Application Procedures

1. *Application:* The petitioner shall submit an application, on forms available from the Department of Building and Community ServicesCommunity Development Department. The application shall also include the following information:
 - a. The legal and common description of the property on which the variance is to be considered.

- b. The variance requested, and the reasons for the request.
- c. The property's present zoning classification.
- d. A site plan showing the subject property and its dimensions.
- e. The location of all existing and proposed buildings, structures and other improvements, building sizes including square footage, and their distances from adjacent lot lines.
- f. List of owners and their mailing addresses as required in Subsection 18.03.01.
- g. Any other information which the Board of Appeals Planning and Zoning Commission or Community Development Director or designee requests.

2. Burden of Proof: In submitting an application for a variance, the burden of proof shall rest with the applicant to clearly establish that the findings of fact required in Subsection 18.03.03, Paragraph 2 are met.

2.3. Review Procedure: The Community Development Director or designee shall review the variance petition. The Community Development Director or designee shall solicit the opinions and comments of other City staff members and, along with the comments received from property owners, governmental agencies, etc., shall forward to the Planning and Zoning Commission their recommendation of approval or denial of the variance petition or approval of a modified version of the variance petition.

18.03.03 Hearing Procedures

1. The Planning and Zoning Commission shall hold a public hearing and shall consider the variance petition and relevant facts presented by the applicant or their representative, City staff, other governmental agencies, or by an interested citizen.

1. The procedure for a hearing shall be as follows:

- a. Parliamentary procedure for all Board meetings shall be governed by Robert's Rules of Order when not addressed by this document or other applicable State Statute or local ordinance.
- b. All witnesses shall be sworn, and all parties or persons who are not attorneys shall be sworn.
- c. The appellant shall begin by presenting his case which may include the presentation of documents, etc., and the calling of witnesses for examination by the appellant.
- d. The appellee shall have an opportunity to cross examine all witnesses after each has testified and examined all documents.
- e. The appellee shall present his case which may include the presentation of documents, etc., and the calling of witnesses for examination by the appellee.
- f. The appellant shall have an opportunity to cross examine all witnesses after each has testified and examined all documents.
- g. The appellant shall be given fifteen (15) minutes to summarize as shall the appellee, in that order.
- h. A representative of the City of DeKalb may testify for either party or appear on behalf of the City of DeKalb.

~~i. No person not a party to the hearing or a representative of the City shall have a right to testify unless formally called by a party to the hearing or the City at the appropriate times mentioned above. The Board reserves the right to call expert witnesses or postpone a hearing date until such time as said witness may be contacted to testify.~~

~~j. The Board reserves the right to question the appellant, appellee, and/or witnesses who may give testimony at any time during the hearing.~~

~~k. The Board reserves the right to impose time limits upon any party giving testimony. (1993-063)~~

2. *Findings of Fact:* Upon review of the application and information presented at the public hearing, the Board-Commission shall consider and adopt findings of fact sustaining each of the following criteria, which are consistent with the rules provided to govern determinations of the Board-of Appeals/Planning and Zoning Commission as referenced by the Illinois Compiled Statutes.

a. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that district.

b. The extraordinary or exceptional conditions of the property, requiring the request for the variance, were not caused by the applicant.

c. The proposed variance will alleviate a peculiar, exceptional, or undue hardship, as distinguished from a mere inconvenience or pecuniary hardship.

d. The denial of the proposed variance will deprive the applicant the use of his/her property in a manner equivalent to the use permitted to be made by the owners of property in the immediate area.

e. The proposed variance will result in a structure that is appropriate to and compatible with the character and scale of structures in the area in which the variance is being requested.

f. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

e-g. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

3. *Variances:* When a property owner shows that a strict application of the terms of this ordinance relating to the construction or alteration of buildings or structures imposes upon ~~him-them~~ practical difficulties or particular hardship, then the Board-Commission may grant a variance to said ordinance in harmony with its general purpose and intent, when the Board-Commission is satisfied under the evidence heard before it, that a granting of such variation will not merely serve as a convenience to the applicant, but is necessary to alleviate some demonstrable hardship or difficulty so great as to warrant a variation from the comprehensive plan by this ordinance created and set forth. The Commission may grant variations from the regulations of this ordinance only; in the following instances:

~~a. To permit the extension of a district where the boundary line of a district provides a lot in single ownership as shown of record.~~

b-a. To permit the reconstruction of a non-conforming building which has been destroyed or partially destroyed by fire or act of God damaged by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of damage where the Board-Commission shall find

some compelling public necessity requiring a continuance of the non-conforming use ~~and in no case shall such a permit be issued if its primary function is to continue a monopoly.~~

~~e.b.~~ To permit the erection of a building in any location for a public service corporation for public utility purposes which the Board deems reasonably necessary for the public convenience or welfare.

~~d.~~ To make a variance where, by reason of an exception situation, surroundings, or condition of a specific piece of property, or by reason of exceptional narrowness, shallowness or shape of a specific piece of property or record, or by reason of exceptional topographical conditions the strict application of any provision of this ordinance would result in peculiar and exceptional practical difficulties or particular hardship upon the owner of such property and amount to a practical confiscation of property as distinguished from a mere inconvenience to such owner, provided such relief can be granted without substantial detriment to the public good and without substantial detriment to the public good and without substantially impairing the general purpose and intent of the comprehensive plan as established by the regulations and provisions contained in this ordinance.

~~e.~~ To interpret the provisions of this ordinance where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts which map is made a part of this Ordinance.

c. To permit a yard, setback or landscape buffer of a lesser dimension that required by the applicable regulations.

d. To allow a fence in excess of the height limitations required by the applicable regulations.

e. To permit the use of a lot for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot be less than eighty percent (80%) of the required area and width.

f. To reduce the applicable off-street parking or loading facilities required by not more than twenty percent (20%).

g. To increase the maximum height requirement of any district.

h. To increase the maximum site coverage.

i. To allow off-site temporary signage.

~~In considering all proposed variations to this Ordinance, the Board shall first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of DeKalb. The concurring vote of four (4) members of the Board Commission shall be necessary to reverse any order, requirement, decision, or determination of the Chief Building Official/Community Development Director or designee to decide in favor of the applicant any matter upon which it is authorized by this Ordinance to render decision, or to effect any variance. (1993-063, 2017-044)~~

4. *Non-conformity as Basis for Variance:* The existence of any non-conformity anywhere in the City shall not itself be considered grounds for the issuance of a variance for other property.

5. Conditions imposed on Variances:

- a. In granting variances, the Board-Commission may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.
 - b. A variance may be issued for an indefinite duration or for a specified duration only.
 - c. The nature of the variance and any conditions attached to it shall be entered on the face of the Board's-Commission's order, or the Board's-Commission's order may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.
6. *Notification of Decision:* All final orders, requirements, and decisions of the Board-Commission shall bear the signature of the Chairman (or Acting-ChairmanVice-Chair if the Chairman is unavailable). It shall be the duty of the secretary-of-the-BoardCommunity Development Director or designee to give proper notification of the final orders, requirements and decisions and draft them if so instructed by the Board-Commission.
7. *Period of Validity:* No order of the Board-Commission permitting the erection or alteration of a building shall be valid for a period longer than six months, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

No order of the Board-Commission permitting a use of a building or premises shall be valid for a period longer than six (6) months, unless such use is established within such period; provided, however, that where such use is permitted is dependent upon the erection or alteration of a building, such order shall continue to force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

18.04 Appeal of Final Actions

No decision of the Board-Planning and Zoning Commission shall be subject to review, reversal or modification by the City Council but shall be subject to judicial review pursuant to the provisions of the Code of Civil Procedure concerning Administrative Review Law.