

## CHAPTER 27

### AMENDMENTS

#### 27.1 GENERAL

Whenever the public necessity, convenience, general welfare or good zoning practice require the amendment, supplement or change in the regulations, District boundaries or reclassification of property, now or hereafter established by this Ordinance or amendments thereto, the amendment may be proposed by:

- (1) A member of a participating legislative body, to that body;
- (2) The Plan Commission to the Town Council of the Town; or
- (3) By petition of the owners of property of fifty percent or more of the area involved in the petition either to the body having legislative authority over the land or to the Plan Commission.

Any proposed Ordinance for the amendment, supplement, change or repeal of the Zoning Ordinance shall be referred to the Plan Commission for consideration and report before any final action is taken by a legislative body.

#### 27.2 AREA FOR REZONING

In case of a petition for a change in the zoning of property, the Plan Commission may consider whether the area described in the original petition should be enlarged, reduced or modified in order to reflect the interests of the Community and to correspond with the Comprehensive Plan. The Plan Commission may recommend to the Town Council such enlargement, reduction or modification if any, as it may deem desirable, provided the Plan Commission properly notifies any and all persons affected by such enlargement, reduction or modification.

#### 27.3 PLAN COMMISSION INITIATION

The Plan Commission shall carry on a continual study of zoning, zoning techniques and the relation of zoning to private developments and public improvements and the Town of Chandler Comprehensive Plan for the orderly growth of the Town of Chandler and may from time to time submit recommendations as to the amendment of this Ordinance to the Town Council.

#### 27.4 BASIS FOR RECOMMENDATIONS

In reviewing and formulating recommendations to the Town Council as to requested or proposed changes in the Zoning Ordinance, the Plan Commission shall consider and evaluate the change in relation to the following aspects of the Comprehensive Plan:

- (1) The land use pattern of the Town of Chandler.
- (2) The transportation system of the Town of Chandler.
- (3) Other parts of the Town of Chandler Comprehensive Plan deemed pertinent by the Plan Commission.
- (4) Whether there have been substantial changes in the character, development of areas in or near the area under consideration.
- (5) The purposes and objectives of this Ordinance as outlined in Chapter 1.

#### 27.5 CONDITIONAL REZONING

No amendment to the Zoning Ordinance to rezone property shall contain conditions, limitations or requirements not applicable to all other property in the Zoning District to which the particular property is rezoned.

#### 27.6 LIMIT ON PETITIONS

The following time limitations shall apply to petitions for rezonings or variances:

- (1) Whenever the Plan Commission has taken action to recommend denial of a petition for rezoning of property, the Plan Commission shall not consider any further petition for the same rezoning of any part of the same property for a period of six (6) months from the date of such action.
- (2) Whenever the Board of Zoning Appeals has taken action to recommend denial of a petition for a variance on any property, the Board shall not consider a petition for a variance on any part of the same property for a period of six (6) months from the date of such action.
- (3) Whenever the Town Council has changed the zoning of property by an amendatory ordinance, the Town Council shall not consider any petition for rezoning of any part of the same property for a period six (6) months from the effective date of the amendatory ordinance.

## CHAPTER 28

### VARIANCES

#### 28.1 BOARD OF ZONING APPEALS

There is hereby created a Town of Chandler Board of Zoning Appeals the members of which shall be appointed and serve in accordance with Article VII, Chapter 138, Acts of 1957, General Assembly of the State of Indiana and all acts amendatory thereto.

#### 28.2 REQUIREMENTS FOR VARIANCES

No recommendations shall be made by the Board of Zoning Appeals for a Variance in the provisions or requirements of this Ordinance unless the Board of Zoning Appeals finds that the following facts and conditions exist:

- (1) That a VARIANCE is a means of relief which is available only when some peculiar circumstance as to SIZE OR SHAPE of the parcel of land (and sometimes its LOCATION) is such that the literal application of the provisions of the Ordinance would impair the owner's rights to some reasonable use of the property. A VARIANCE shall not be granted unless, in the first place, there are such peculiar circumstances.
- (2) That the circumstances which cause the HARDSHIP must be peculiar to the property in question, or to such a small number of properties that they clearly constitute marked exceptions to the property in the neighborhood. If the circumstances cited as a basis for applying for the Variance are common to the property in the neighborhood the VARIANCE shall not be granted.
- (3) That after establishing the peculiar circumstance applying to the property in question, it is next necessary to show that the VARIANCE is required in order to reserve a substantial property right of the petitioner. It is of no moment whatever that the denial of the Variance might deny to the property owner some opportunity to use his property in a more profitable way or to sell it at a greater profit than is possible under the terms of the Ordinance. The owner is entitled only to a reasonable use of his property.
- (4) That any alleged hardship is not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of this Ordinance.
- (5) That the REGULATIONS to which the Variance is sought shall be modified as little as possible so that the substantial intent and purpose of the regulations shall be preserved. The granting of the VARIANCE should be made subject to such conditions as will constitute this end.

- (6) That the VARIANCE will not result in substantial detriment to adjacent property nor the surrounding neighborhood, and will not be materially detrimental to the public welfare.

### 28.3 GRANT OF VARIANCE

The grant of a Variance by the Board of Zoning Appeals in a proper case where practical difficulty and unnecessary hardship shall have been found, shall be by RESOLUTION. The granting of a VARIANCE SHALL NOT BE BY AN ORDINANCE amending the Comprehensive Zoning Ordinance.

### 28.4 CONDITIONS AND LIMITATIONS

In connection with any recommendation by the Board of Zoning Appeals for the granting of a VARIANCE, the Board shall include any conditions, requirements or limitations to be attached to the VARIANCE, which the Board may believe to be necessary and desirable to protect adjacent properties and the surrounding neighborhood, and to carry out the purposes and objectives of this ORDINANCE. The Board shall incorporate such conditions, requirements and limitations in any grant of a VARIANCE, which the Board in its judgment deems reasonable and appropriate to effectuate the principles and purposes of the Comprehensive Zoning Ordinance.

### 28.5 TIME LIMIT

Any VARIANCE granted by the Board of Zoning Appeals shall expire six (6) months after the effective date of such action by the Board, unless a permit based upon and incorporating the VARIANCE is obtained within the aforesaid six (6) months period, or unless the provisions of the VARIANCE are adhered to within the aforesaid six (6) months, provided good cause is shown, and the application for extension shall be filed with the Board at the Plan Commission two weeks prior to the expiration of the aforesaid six (6) months period.

## CHAPTER 29

### CONDITIONAL USE

#### 29.1 OBJECTIVES

The principal objective of the Comprehensive Zoning Ordinance is to provide for the proper location of all types of land use. To accomplish this objective, various uses of land are classified by this Ordinance as being permitted in one or more of the various Districts established. However, it may be necessary to permit certain Uses in Districts other than those in which they are classified, because of their unusual characteristics or the large area required for their operation. These Uses require special consideration as to their proper location in relation to adjacent uses or to the development of the Town of Chandler, and to the various elements, of the land use plan for the Town of Chandler. Because of the various types of uses and locations requiring special consideration, the specific conditions under which each use may be permitted also must be considered. Such uses, together with the conditions controlling their operation are specifically designated as Conditional Uses within the Ordinance.

Approval may be granted by the Board of Zoning Appeals after a Public Hearing provided the following findings are made:

- (1) The Use is deemed essential or desirable to the public convenience or welfare.
- (2) The Use is in harmony with the various elements of objectives of the land use plan for the Town of Chandler.
- (3) The Use will not be detrimental or injurious to the character of the development of the immediate neighborhood.

#### 29.2 CONDITIONS AND LIMITATIONS

When granting approval for a Conditional Use the Board of Zoning Appeals may attach any conditions or limitations that it determines necessary for the protection of the surrounding area in order to promote the intent and purpose of this Ordinance.

#### 29.3 GRANTING OF CONDITIONAL USE

The grant of a Conditional Use, by the Board of Zoning Appeals, shall be by resolution and shall not be by Ordinance amending the Comprehensive Zoning Ordinance.

29.4 **TIME LIMIT**

Any conditional or special use granted by the Board of Zoning Appeals shall expire six (6) months after the effective date of such action by the Board, unless a permit based upon and incorporating the conditional or special use is obtained within the aforesaid six (6) months period, or unless the provisions of the conditional or special use are adhered to within the aforesaid six (6) months, provided good cause is shown, and the application for extension shall be filed with the Board at the Plan Commission two weeks prior to the expiration of the aforesaid six (6) months period.