

PROCESS TO APPEAR BEFORE THE CHARLESTON BOARD OF ZONING APPEALS AND PLANNING

Use this packet to request development approval from the City when consideration by the Charleston Board of Zoning Appeals and Planning and/or approval from the Charleston City Council is required. This Application is available on the City's website at www.charlestonillinois.org.

Questions may be directed to the City of Charleston Building and Development Services at (217) 345-5650.

This Application Packet includes: 1.) Application to Appear Before the Charleston Board of Zoning Appeals and Planning; 2.) Required Exhibits specifically for Zoning Text and Zoning Map Amendments, Conditional Use Permits and Variances (see the Charleston City Code for specific Submission Requirements for all other Development Types); and 3.) Procedures for Zoning Text and Zoning Map Amendments, Conditional Use Permits and Variances (see the Charleston City Code for Procedures for all other Development Types).

PROCESS

Prior to submittal of an Application for Development Approval, please contact the City of Charleston Building and Development Services Department at (217) 345-5650 to determine whether or not a concept meeting or pre-application submittal meeting is required.

Submit a completed Application including all materials noted in the Application and required Fees. *Submittals will not be accepted and/or processed until all of the submittal requirements are met.* Once the completed Application is accepted, the City will assign a project manager and case number to the project.

The completed Application will be forwarded to City departments (e.g. planning, utilities, public works) for review and comment.

At the conclusion of the review, the project manager will transmit the City's technical review comments (if any) to the Primary Contact identified on the Application for Development Approval. Comments may necessitate revisions to plans prior to scheduling the project for a Charleston Board of Zoning Appeals and Planning meeting and/or City Council meeting.

The City's project manager will work with the Primary Contact to schedule a public hearing/meeting before the Charleston Board of Zoning Appeals and Planning (if required). *The Primary Contact will be notified of the hearing/meeting date.*

Please see the Procedures for 1.) Zoning Text and Zoning Map Amendments, 2.) Conditional Use Permits and 3.) Variances at the end of this application for specific steps and requirements concerning these three application types (please refer to the Charleston City Code for Procedures for all other Development Types).

City of Charleston

APPLICATION TO APPEAR BEFORE THE CHARLESTON BOARD OF ZONING APPEALS AND PLANNING

1. APPLICANT INFORMATION:

APPLICANT: _____ DATE: _____
(print name) *(signed)*

ADDRESS: _____ PHONE No.: _____

CITY / STATE / ZIP: _____

2. TYPE OF APPLICATION:

(Check applicable box(es) and provide responses to corresponding exhibits attached herein. Please refer to the Charleston City Code for required information for sections that do not have specific exhibits included in this packet.)

Zoning Variance *(exhibit 1)* _____ Planned Unit Development _____
Conditional Use Permit *(exhibit 2)* _____ Major Subdivision _____
Zoning Map Amendment *(exhibit 3)* _____ Appeal of Code Official's Decision _____
Zoning Text Amendment *(exhibit 3)* _____
Other (Please Describe): _____

Brief Project Description: _____
Zoning Classification: _____

3. REQUIRED DOCUMENTS (TO BE PROVIDED BY THE APPLICANT):

- A. Street Address of the Subject Property: _____
- B. Subject Property Legal Description (to be provided to the City in electronic format as a Microsoft Word Document / email the subject property's legal description to: cityplanner@co.coles.il.us)
- C. Letter of Intent (a one page description of the project and the why the request is necessary)
- D. Plans ("blueprints" or similar plan sheets showing as applicable: site plan, elevations, floor plan)
- E. Provide any additional information as required and detailed in the Charleston City Code or as requested by the Charleston Code Official

FOR OFFICE USE ONLY			Application Number: _____		
Submitted Date:	Sent to Publish:	Published Date:	Hearing Date:	To Council Date:	Affected Zoning:

4. OWNER INFORMATION:

A. Do you own this property fee simple (if yes, check yes and skip to #5)? YES: NO:

B. If the applicant is not the owner of this property please provide the following:

OWNER *: _____ DATE: _____
(print name) (signed)

ADDRESS: _____ PHONE No.: _____

CITY / STATE / ZIP: _____

C. If the property is owned by a land trust, who has beneficial interest in this property?

TRUST NAME *: _____ DATE: _____

ADDRESS: _____ PHONE No.: _____

CITY / STATE / ZIP: _____

TRUST'S REPRESENTATIVE: _____ DATE: _____
(print name) (signed)

TRUST'S REPRESENTATIVE: _____ DATE: _____
(print name) (signed)

TRUST'S REPRESENTATIVE: _____ DATE: _____
(print name) (signed)

** If Owner(s) is different than the Applicant, please attach a letter from the Owner(s) authorizing submittal of this Application to the Charleston Board of Zoning Appeals and Planning.*

5. APPLICANT'S REPRESENTATIVE:

If the applicant is planning to be represented by a third party for purposes of this application and to appear on behalf of the applicant at the Charleston Board of Zoning Appeals and Planning meetings, please provide the Representative's contact information below:

REPRESENTATIVE: _____ DATE: _____
(print name) (signed)

REPRESENTATIVE'S FIRM NAME (IF APPLICABLE) _____

ADDRESS: _____ PHONE No.: _____

CITY / STATE / ZIP: _____

d. The following factors shall be used to determine whether each of the findings have been satisfied:

(1) Prior to finding that a property could not yield a reasonable return as provided in Item 4a of this section, the city shall consider:

(A) The initial purchase price was prudent and the intended return reasonable.

(B) Lack of reasonable return was not due to a general economic downturn that affected all similarly situated property in the city.

(C) The impact of the regulations could not have been reasonably anticipated at the time of purchase of the property.

(2) Prior to finding that the plight of the owner is due to unique circumstances, as provided in Item 4b of this section, the city shall consider:

(A) The variance is being requested due to a constraint that does not commonly apply to other properties within the city.

(B) The variance is required due to the shape or size of the property or due to natural constraints such as steep slopes, floodplains or significant vegetation (define this as specimen trees or stands of trees) that will be preserved.

(3) Prior to finding that the variance, if granted, will not alter the essential character of the locality, as provided in Item 4c of this section, the city shall consider:

(A) The variance will not reduce the viability of adjacent uses.

(B) The variance will not reduce the value of adjacent properties.

(C) The variance will not create a health or safety hazard for the users of the subject or adjacent properties, pedestrians, bicyclists or automobiles.

(D) The variance will not subject adjacent residences to additional light or noise.

5. Decision Makers:

a. Board Of Zoning Appeals And Planning: The board of zoning appeals and planning shall conduct a public hearing in conformance with subsection 10-4-1(B) of the City Code. The board shall make recommendation to the city council on approval or denial of the variance request. The board shall make finding based upon Item 4 of this section in conformance with 65 Illinois Compiled Statutes 5/11-13-5.

b. City Council: City council shall make the final decision by considering the above described findings and minutes of the public hearing from the board of zoning appeals and planning.

EXHIBIT 2 - Conditional Use Permits
(Refer to 10-4-3 (D) of the Charleston City Code)

All conditional use permit applications follow the type 3 review process as described in subsection 10-4-1(C) of the Charleston City Code.

1. Purpose: The purpose of conditional use review is to allow the city to exercise some discretion over the extent and design of certain activities that could have a detrimental effect on the community if permitted to exist in large numbers, in certain locations or without special conditions. Therefore, these regulations enable the city to authorize a conditional use subject to conditions that mitigate the potential problems associated with the use or its location in relation to the neighboring properties. A conditional use is not a use by right.
2. Applicability: Conditional uses, as shown in Tables 5-2 and 5-3 of the Charleston City Code (subsections 10-5-3 (B) and (C)), are uses that have negative impacts upon allowed uses that can be mitigated for some sites. A conditional use, once approved, goes with the land for the approved use only, unless the permit is revoked due to violations enumerated in part 6 “Revocation” of this section. The designation of a use in a zoning district as a conditional use does not constitute an authorization or assurance that such use will be approved. Temporary uses for commercial, recreational or amusement land uses also shall be required to receive approval of a conditional use permit.
3. Application and Procedures: The applicant shall file an application with the required information listed herein and any additional information as prescribed in the Charleston City Code and as requested by the Building Code Official or City Planner.
4. Review Criteria: The following criteria shall be used when determining approval of a conditional use permit:

These items (a-g) should be addressed in the application:

- a. The proposed use at the specified location is consistent with the goals, objectives and policies of the comprehensive plan;
- b. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations and complies with requirements of this code;

If applicable to this proposed conditional use permit, the applicant should also specifically address any “Supplementary Conditions for Specific Uses” as outlined in Chapter 7 of Title 10 (Unified Development Code) of the City Code below:

5. Decision Makers:

- a. Board Of Zoning Appeals And Planning: The board of zoning appeals and planning shall conduct a public hearing, review the conditional use permit application and make its recommendation to the council for approval, denial, or conditional approval.
 - b. City Council: The council shall review the conditional use permit application and any other proposed action related to the permit and the board's recommendation, and shall approve, conditionally approve or deny the permit. The council may impose conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to protect the public and to ensure compliance with the provisions of this title.
6. Revocation: Any conditional use permit granted under the authority of this title is subject to revocation by the council for any or all of the following reasons:
- a. Noncompliance with any special conditions imposed by this title or by the council at the time of approval of the conditional use permit.
 - b. Violation of any provisions of this title pertaining to the use of the land, construction or uses of buildings or structures or activities conducted on the premises by the permittee or agents of the permittee.
 - c. Violation of any other applicable provisions of this title or any state or federal law or regulation by the permittee or agents of the permittee; provided, that such violations relate to the conduct or activity authorized by the conditional use permit or the qualifications of the permittee or its agents to engage in such conduct or activity.
7. Validity: The conditional use permit shall be valid for the duration of the period specified (if specified) in the ordinance approving the permit unless revoked by the council or the use is ceased or terminated for ninety (90) consecutive days. The duration of the permit may be extended if, after a public hearing, the board of zoning appeals and planning recommends and the council grants the extension of up to one hundred twenty (120) days. Conditional use permits granted prior to adoption of this title shall remain in effect under the conditions established at the time the permits were issued. Amendments to those permits shall be processed as new permits in accordance with the Charleston City Code.

5. Decision Makers:

a. Board Of Zoning Appeals And Planning:

- (1) The board of zoning appeals and planning shall hold a public hearing on each proposed amendment within thirty (30) days of the date of application.
- (2) When the board of zoning appeals and planning deems it necessary or expedient, the board may consider other property for a change or amendment of zoning district in addition to the property described in the application; provided, that such additional property is included in the hearing notices.
- (3) Within thirty (30) days of the conclusion of the public hearing, the board of zoning appeals and planning shall forward to the city council a summary of all evidence taken at the hearing, together with its recommendations for any change to zoning district boundaries and/or regulations. The board may recommend approval, denial, or conditional approval. The reasons for the recommendations shall be included. A copy of the recommendations shall be given to the applicant.

b. City Council:

- (1) Decision: The council shall consider the findings of fact and the recommendation of the board of zoning appeals and planning and the record of public input. Within thirty (30) days of conclusion of the council's initial consideration of the application, the council may, by simple majority vote, approve, deny or conditionally approve the recommendation of the board of zoning appeals and planning.
- (2) Amending Ordinance: If the council approves an application, it shall adopt an ordinance approving the change. The amending ordinance shall define the change or boundary as amended. The ordinance shall be filed with the city clerk and shall be recorded in the county recorder's office.
- (3) Protest: In case a written protest is filed with the city clerk, in conformance with 65 Illinois Compiled Statutes 5/11-13-14, a favorable vote of four-fifths ($\frac{4}{5}$) of the council membership shall be required to approve the amendment.

**PROCEDURE FOR:
ZONING TEXT AND MAP AMENDMENTS,
CONDITIONAL USE PERMITS AND ZONING VARIANCES**

The **Board of Zoning Appeals and Planning (BZAP)** is a recommending body to the City Council. They hold the public hearing, on behalf of the City Council, required by Illinois State Law for all zoning actions or requests. Their recommendation is forwarded to the City Council for final decision.

The following steps are required for:

- 1. **Zoning text and map amendments** (zoning classification changes);
- 2. **Conditional use permits** (special uses that are only allowed in certain zoning districts with the permission of the City Council); and
- 3. **Zoning variances** (oversized garages, reducing a required setback or number of required parking spaces for a particular project).

Please refer to the Charleston City Code for Specific Procedures for all other Development Types.

Please follow the steps below:

- 1. **Allow a minimum of six weeks** for your request to be processed, legal notices given, and for BZAP and the City Council to act on your request. Due to the timing of your request, or if additional hearings are required, the time frame may lengthen.
- 2. **Fill out application form.** Provide as much information as you can. If you question whether something is really needed or what something is, please ask.
- 3. **Provide a complete legal description** of the property with your application. Please get this legal description from the deed or abstract of the property.

NOTE: Legal descriptions found on tax bills are not sufficient for proper legal notice publication. If legal description is not accurate, any zoning action taken by BZAP and the City Council may be declared invalid. It is **your** responsibility to provide an accurate legal description. At the very least, an invalid or incorrect legal description will cost you the price of a second legal notice publication.

4. **The application fee to appear before the Zoning Board for these three items is \$100.00. This fee must accompany your application to the City Planner.**
5. **A legal notice must be placed in the Legal Notice section of the local paper** before any hearing or action can take place. Legal notice must be placed in the newspaper no less than fifteen (15) days and no more than thirty (30) days prior to the hearing.
6. **The City will prepare the legal notice in proper format for publication.** When you are notified the legal notice is ready for publication, **you** must come to City Hall and pick it up.
7. **Proofread the legal notice.** Please pay particular attention to names and legal description. **You** are responsible for the accuracy of the legal notice.
8. **Take the legal notice to the Journal Gazette / Times-Courier**, located at 100 Broadway Avenue, Mattoon, IL 61938. Have it published as a legal notice. **NOTE: You are responsible for paying the publishing fee and to provide the City of Charleston with a copy of the Certificate of Publication.**
9. **Contact all property owners within 250 feet** of your property by post card mailed through the United States Post Office or hand delivered. Include date and time of hearing and a brief description of what you are asking for and a statement the public has a right to speak at the meeting.
10. **Post a sign** (provided by the City) adjacent to the street indicating zoning action has been requested at this property. Include date and time of hearing.
11. Approximately nine (9) days before hearing, the City provides information packets for members of the Board of Zoning Appeals & Planning. Any information about your request provided prior to that day will be included with BZAP members' packets for their review.
12. Zoning hearings commence at 7:00 p.m. in City Council Chambers, City Hall, 520 Jackson Avenue, Charleston, Illinois.

13. **You or your representative must appear at the public hearing at time, date and place indicated in legal notice.** At the hearing, you will be asked why the Board of Zoning Appeals & Planning should grant your request. It is advised that persons seek counsel of an attorney in preparing arguments. **An attorney may represent you at the hearing.** You also have the right to call witnesses on your behalf.
14. After you speak at the hearing, any interested parties (either for or against your request) may speak. They have the right to cross-examine or ask questions for clarification.
15. After testimony is complete, BZAP will do one of three things:
- Vote to recommend City Council approve your request.
 - Vote to recommend City Council deny your request.
 - Continue hearing in order to become better informed about the request and/or to have you bring additional information about your request.
16. There are seven (7) members of BZAP; a *quorum* of at least four (4) members is required to hold a hearing. **A favorable recommendation requires at least four (4) favorable votes of the BZAP members**—No matter how many members are present. A 3-to-1 vote in favor of your petition will still result in an unfavorable recommendation being sent to City Council.
17. If only four (4) members of BZAP are present at the hearing, you automatically have the right to have your hearing continued until the next regularly-scheduled BZAP hearing date. This will allow you to have your request heard by the full Board. **You** must make this request to the Board.
18. After BZAP has made a recommendation on your request, **you** must take it before City Council for actual approval. In order to do that, **you must prepare or have prepared an ordinance for City Council to consider.** We will provide a copy of an ordinance to use as an example of the proper format. **You must bring the ordinance into the City Planner at least seven (7) working days prior to the City Council meeting in order to be guaranteed placement on the agenda.** City Council meetings are conducted at 7:30 p.m. on first and third Tuesdays of each month.

19. You may attend the City Council meeting on the date your request is scheduled to be heard. The Council has the right to decide the matter based upon information presented at the BZAP hearing and sent to them in the form of minutes and a Finding of Fact, which the BZAP chairman and secretary sign. On occasion, the Council may ask questions about your request.
20. **City Council's decision is final.** If the applicant or other aggrieved party feels there was a legal error made during the process, he/she/they **may take that concern to the Coles County Courthouse.**
21. After City Council approves your request, you may apply for the necessary permits to start your project.

If you have questions, call 217-345-5650.