

Section 904. Applying for a Variance

Applying for a Variance: To apply for a variance from the terms of the Zoning Ordinance, the applicant must submit the following:

1. Letter stating what is being requested and what type of development is proposed.
2. Two (2) copies of plot plan detailing existing structure, proposed development and encroachment, dimensions of property, location of all streets bordering property, and the names and mailing addresses of all property owners adjacent to side of property affected.
3. A fee of Seventy-five (\$75.00) Dollars, payable in advance to help defray the expense of advertising and processing.
4. These items must be submitted to the City of Waveland Zoning Official in time for the variance request to be advertised in the legal section of the local newspaper, a minimum of fifteen (15) days prior to the next regular meetings of the Planning and Zoning Commission. A letter must be mailed by the Zoning Official to all property owners lying adjacent to the property line for which said variance is being requested. The Planning and Zoning Commission will hear testimony from any concerned citizen of Waveland at the designated public hearing and will make a recommendation on the variance request to the Board of Mayor and Aldermen based on testimony heard at the public hearing.

Section 905. Applying for a Zoning Change

Applying for a Zoning Change: In applying for a zoning change, the applicant will be required to submit the same information required for a variance, as well as the following:

1. Names and mailing addresses of all property owners within three hundred (300') feet of the proposed change.
2. A One Hundred and Forty (\$140.00) Dollar fee to defray the cost of advertising and processing.
3. A three (3) foot by three (3) foot sign must be visibly posted near the street or property being considered for a zoning change. The sign must state current classification and classification being requested.

Section 906. Power and Duties of the Planning and Zoning Commission

The Planning and Zoning Commission shall have the following powers and duties:

906.1 To recommend in special cases such variances from the terms of this Zoning Ordinance as will not be contrary to public interest where, owing to the special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. A variance from the terms of this Zoning Ordinance shall not be recommended by the Planning and Zoning Commission unless and until:

- A. A written application for a variance is submitted demonstrating:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district.
 2. That literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Zoning Ordinance.
 3. That special conditions and circumstances do not result from the actions of the applicant.
 4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Ordinance to other lands, structures, or buildings in the same district.
- B. A public hearing shall be held after giving at least fifteen (15) days notice of the hearings in an official newspaper specifying the time and place for said hearing.
- C. The Planning and Zoning Commission may find in specific cases such variances from the terms of this Zoning Ordinance may not be contrary to the public interest where, owing to special conditions, literal enforcement of the provisions of this Zoning Ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of this Zoning Ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variances may be recommended in such case of unnecessary hardship upon a finding by the Planning and Zoning Commission that all of the following conditions exist:
1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.
 2. A literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
 3. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.
 4. The requested variance will be in harmony with the purpose and intent of this Zoning Ordinance and will not be injurious to the neighborhood or to the general welfare.
 5. The special circumstances are not the result of the actions of the applicant.
 6. The existence of a non-conforming use of neighboring land, buildings or structures in the same district, or non-conforming uses in other districts shall not constitute a reason for the requested variance.

7. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
8. The variance is not a request to permit a use of land, building or structures which are not permitted by right or by conditional use in the district involved.
9. Notice of public hearing shall be given as in section 906.1.B.

906.2 To hear and make recommendations with respect to the following exceptions to this Zoning Ordinance after public hearing as provided for in subsection 906.1.B above:

- A. To permit the extension of a district where the boundary lines thereof divided a lot held by a single ownership at the time of adoption of this Zoning Ordinance.
- B. To interpret the provisions of this Ordinance in such a way as to carry out the intent and the purpose of the plan as shown upon the Zoning District Map where the street layout on the ground varies from the street layout as shown on the Zoning District Map.
- C. To vary the parking regulations by not more than ten (10) spaces where it is conclusively shown that the specific use of a building would make unnecessary the parking spaces otherwise required by this Ordinance. In the C-3 District, parking regulations may be varied more than ten (10) spaces where extreme and unusual hardship is shown.

906.3 Conditional Uses: Subject to the provisions of Sections 901 and 902 of this Article, the Planning and Zoning Commission shall set a hearing and make a recommendation to the Board of Mayor and Aldermen to grant a conditional use for the uses enumerated as conditional uses in any district as herein qualified and may impose appropriate conditions and safeguards including a specified period of time for the use to protect property and property values in the neighborhood.

- A. Applications for conditional use for uses authorized by this Ordinance shall be made to the Planning and Zoning Commission. A public hearing shall be held, after giving at least fifteen (15) days notice of the hearing in an official paper specifying the time and place for said hearing. The application shall be specified by the governing authority. The Planning and Zoning Commission will investigate all aspects of the application giving particular regard to whether such use will:
 1. Substantially increase traffic hazards or congestion.
 2. Substantially increase fire hazards.
 3. Adversely affect the character of the neighborhood.
 4. Adversely affect the general welfare of the city.
 5. Overtax public utilities or community facilities.
 6. Be in conflict with the Comprehensive Plan.

If the findings by the Planning and Zoning Commission relative to the above subjects are that the City would benefit from the proposed use and

the surrounding area would not be adversely affected, then the Commission may recommend the project for approval to the Board of Mayor and Aldermen.

- B. Any proposed conditional use shall otherwise comply with all regulations set forth in this Zoning Ordinance for the district in which such use is located.

Section 907. Review of Permits for the Removal of Live Oak and Magnolia Trees.

The Planning and Zoning Commission shall recommend approval or denial with final decision by the Board of Mayor and Aldermen, for a permit for the cutting of Live Oak and Magnolia trees consistent with Section 409 of this Ordinance, and based upon the following criteria:

1. The tree or trees proposed to be cut are in such poor health or bad physical condition as to be a hazard to human safety; or
2. Construction cannot be practically located in such a way as to preserve the tree or trees.

Article X

The Board of Mayor and Aldermen

Section 1001. Powers and Duties of the Board of Mayor and Alderman

It is the intent of this Ordinance that under this Zoning Ordinance the Board of Mayor and Aldermen shall be the final Zoning Authority of the City of Waveland and shall constitute the City's Zoning Appeals Board.

Section 1002. Final Zoning Authority

After a public hearing by, and based on the recommendations of, the Planning and Zoning Commission, the Board of Mayor and Aldermen acting as the final Zoning Authority may upon its consideration authorize the following.

1002.1 Amendments

Pursuant to Article XI, amendments to the regulations and districts herein established.

1002.2 Conditional Uses

1002.3 Exceptions

Exceptions pursuant to Section 906.2 with respect to zoning district boundary lines, interpretation of the street layout and parking requirements.

1002.4. Permits for the removal of certain Live Oak and Magnolia Trees

1002. 5. Schedule of Fees, charges and Expenses.

The Board of Mayor and Aldermen shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, certificates, appeals and other