



CITY OF PECULIAR
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CITIZEN'S GUIDE TO ZONING

The City of Peculiar's zoning code is the regulatory tool used to secure coordinated development within the corporate limits of the City. Every parcel of land in the City has a zoning designation. The Zoning District defines the types of land uses or development that are allowed within that district. Within each district, standards such as building setbacks, minimum lot area requirements, parking standards, and sign provisions are specified. This document is intended to serve as a quick reference source for the zoning process and not a substitute for the Zoning Ordinance.

FREQUENTLY ASKED QUESTIONS...

WHAT IS ZONING?

Zoning is used by most cities to implement the adopted Comprehensive Plan ("Plan"). Zoning also encourages development that is consistent with the goals and policies of the Plan. Zoning functions to guide property owners in the use of their land in the best interests of the public health, safety, and general welfare.

Zoning controls the development of property by controlling two aspects of land use. First, the uses permitted within a given Zoning District are identified; second, the amount of building that may be developed on a parcel of land is regulated. Every parcel of land located within Peculiar has a zoning classification. In general, zoning is divided into three major classifications - residential, commercial, and industrial. Residential classifications are R-1 "Single-Family Dwelling"; R-2 "Two-Family Dwelling"; R-3 "Multi-Family Dwelling" & R-4 "Multi-Family and Congregate Housing" and the uses are primarily residential. Commercial and Industrial classifications are C-1 "General Business"; C-2 "Central Business"; C-P "Planned Business"; I-1 "Light Industrial" & I-2 "Heavy Industrial" and the uses range from offices, retail sales and other uses for commercial to manufacturing, distribution and other more intensive uses for industrial. The zoning classifications also include rural residential, arts & culture and agriculture. Zoning regulations address such building aspects as height, lot coverage, and setbacks from right-of-way and adjacent properties. The zoning ordinance also develops standards such as the amount of parking required for each use, the size and number of signs permitted, landscaping, lighting, noise, environmental, site & building aesthetics.

Zoning is also intended to reserve sufficient land for developers and builders to provide facilities for people to live, work, shop and play. Zoning helps government entities determine the location and size of major streets, the size of water and sewer lines and the best locations for parks, schools and fire stations. The general idea is that if the community accepts some restrictions on individual property rights, there is more assurance that everyone's use, enjoyment and property value are better protected.

Zoning restrictions must be reasonable, applied in a uniform manner and established through a system that guarantees due process for all affected parties. The federal bill of rights, state statutes and more than a century of court decisions all affect how land use can be regulated. Generally, private property owners have the right to put their land to some economically viable use, though not necessarily the most profitable use.

HOW DO I KNOW WHAT MY PROPERTY IS ZONED? WHAT CAN MY PROPERTY BE USED FOR?

You may be able to determine the zoning designation of your property by reviewing the zoning map on the city website (www.cityofpeculiar.com). Once the zoning designation is known, go to Chapter 400 of the Peculiar Municipal Code or the city's website and select the chapter containing the standards for your district. Depending on the type of use, additional development standards may apply. Additionally, the City adopted the Arts and Culture (A-C) Overlay District located downtown, which imposes additional restrictions on the use of the land. The District is unique, as it is a mixed-use district allowing residential and commercial uses. If you have questions, call the City Planner at 816-779-5212.

HOW ARE USES PERMITTED? DO I NEED PERMISSION TO USE MY LAND?

Most uses in each zoning district are permitted "by right," which means the listed uses in each district are permitted without a public hearing or city approval. However, certain uses are only allowed by "special permit." All special permits must be approved by the Board of Aldermen after the Planning Commission has reviewed the application and made a recommendation. In each case, there will be a public hearing with prior notification to nearby owners and proper advertisement. During the public hearing, the applicant for the special permit will present their application and city staff will present their recommendation. Members of the public will also have an opportunity to speak either for or against the application. When approving a special permit, the Board of Aldermen can impose reasonable conditions on the execution of the special permit. The Board may also deny the request if it is determined to be inconsistent with the adopted Comprehensive Plan, Zoning Code or has too many negative impacts.

WHAT IF I WANT TO DO SOMETHING THAT IS NOT ALLOWED BY THE ZONING DISTRICT I AM IN? HOW DO I CHANGE IT?

The process of changing the zoning designation begins with the owner or a prospective purchaser submitting a "change of zone" or "rezone" application and filing fee to the City Planner. All applicants are encouraged to first meet with the City Planner to make sure they understand the information required for a submittal and the potential issues they may face. Applicants are also strongly encouraged to meet with neighboring owners prior to filing the application, especially if the change appears to be controversial. This allows the applicant to consider incorporating the concerns of neighbors in order to mitigate any potential negative impacts resulting from their project.

Once an application is submitted, the City Planner will research the request to determine the previous history relating to the site, the character of surrounding uses and zoning, the infrastructure available and consistency of the request with relevant Comprehensive Plan policies and the Zoning Code. Notice of the required public hearings will be mailed to nearby property owners within 300 feet, and hearings will be held by the Planning Commission for their recommendation, and by the Board of Aldermen for final action.

IF I THINK MY NEIGHBOR IS USING HIS PROPERTY ILLEGALLY, WHERE DO I MAKE A COMPLAINT?

One of the duties of the Codes Department is to enforce the zoning ordinance. The Department also administers building and property maintenance codes. To report a violation, contact the Codes Officer at 779-5212.

WHAT CAN I DO IF MY NEIGHBOR IS TRYING TO CHANGE THE ZONING ON HIS PROPERTY, AND I DON'T LIKE HIS PLANS?

First, you can contact the applicant directly to discuss your concerns. A telephone number for the contact person associated with the application is kept on file with the City Planner. You have the right to comment on any application filed. You can comment in person by testifying at the official public hearing or in writing or by fax or

e-mail prior to the hearing. Aggrieved parties, as well as the applicant, have the right to appeal a decision of the Board of Aldermen to Municipal Court. Appeals must be filed within specified time periods.

WHAT IS A SUBDIVISION OR PLAT, AND WHAT DOES IT DO? DO I NEED TO HAVE ONE TO SELL MY PROPERTY?

The Zoning Code regulates some aspects of how you can use your property, but other aspects are regulated by Peculiar Municipal Code Chapter 405, "Subdivision Regulations." Generally, if you want to purchase a portion of land, the dividing of the parcel (called subdividing) must be approved by the City through a formal review process. Typically, developers will purchase large tracts of land and divide them into blocks of lots that are bound by streets. The subdivision must be consistent with all Zoning and Subdivision regulations. As mentioned previously, lot size, density (total number of dwelling unit per acre), building setbacks and uses are described in the Zoning Code for each zoning district.

One of the historic reasons to require that all subdivisions and subsequent sale of lots be reviewed and recorded through a subdivision process is to provide a simple system of legally defining property. Another longstanding purpose of subdivision regulations is to ensure that lots are actually "buildable" - that they meet the lot area, yard requirements of the zoning district, have access from a public right-of-way, the land is suitable for buildings (e.g. not too steep, and not subject to flooding) and that adequate provisions have been made for water and sewer service and on-site storm water or drainage. Easements may also be required to accommodate public and private utility lines. Subdivision review also ensures that streets line up properly and connect from one development to another, are properly designed and constructed and are named in a logical way that does not cause confusion for emergency and delivery services. Subdivision regulations further govern grading and drainage, erosion control and the installation of sidewalks, street trees and lighting.

Subdivision maps or plats involving new streets are prepared by engineers or surveyors who understand the many technical requirements. If a new street right-of-way is being dedicated to the public, a preliminary plat must be filed. The preliminary plat is reviewed by staff from various departments and agencies and ultimately approved by the Board of Aldermen. Final plats are then prepared and submitted, with appropriate conditions and/or improvements installed or guaranteed before the plat can be recorded with the County Register of Deeds, at which time ownership of the individual lots may be legally transferred. For more information, contact the City Planner at 816-779-5212.

GENERAL OUTLINE OF ZONING TOPICS

- INFORMATION SHARING – The effective implementation and enforcement of zoning regulations depends upon accurate communication of information between the public and city staff. The City of Peculiar has established an easily accessible system for the public to provide and obtain information relative to their zoning and development needs. For further information, contact Cliff McDonald, City Planner who can be reached at 779-5212, or cmcdonald@cityofpeculiar.org. The City Planner is the individual charged with ensuring adequate and appropriate information is provided to the public and other city staff, so that zoning and development proposals can be reviewed and acted upon in an efficient, timely, and fair manner.
- CERTIFICATE OF OCCUPANCY – When a new use or occupant is contemplated for land or structures located within Peculiar, a Certificate of Occupancy (CO) is required to be issued prior to commencement of the new use or occupancy by the new occupant. A CO provides Peculiar with an opportunity to review the intended use or occupant in light of current zoning regulations. When the city finds the new use or occupant are in conformance with the requirements of the zoning provisions, meaning that the use is one that is permitted in the underlying zoning district, a CO will be issued. If the proposed use does not conform, the CO

will not be issued. Without an approved CO, the use or occupancy of a structure in Peculiar is a violation of the Zoning Code.

- **BUILDING PERMITS** – When new structures or additions to existing structures are contemplated, the owners of such structure must apply for, and obtain, a building permit prior to commencing work. While building permits are traditionally understood to enforce provisions of the building code, these permits are also used to review a proposed project for compliance with the Zoning Code. In this sense, a building permit review does not only address building and construction related details it also ensures the proposed project conforms to the required size, use, and location provisions of the Zoning Code. This type of review may be conducted on-site or with project plans or drawings.
- **CERTIFICATE OF COMPLIANCE** – Prior to the commencement of a use that requires special permit approval, the permittee must apply for and obtain a Certificate of Compliance (“CC”) from the City. A CC is a procedural requirement that compares the execution of a special permit to the requirements of the permit as approved. Many special permits will be approved with certain conditions attached, allowing the Board of Aldermen the flexibility to tailor specific uses to their particular location and surrounding characteristics without adversely impacting neighboring properties. The CC provides the City Planner the means to review project documentation and visit the site to ensure a special permit is being operated within the limits of its approval.
- **ZONING ADMINISTRATOR (CITY PLANNER)** – Another key element to the successful implementation of the Zoning Code is having experienced staff available to answer questions, make determinations, and assist the Planning Commission and Board of Aldermen with their zoning related duties. The zoning administrator must have a complete understanding of the content of the zoning regulations and be able to communicate them clearly and effectively. The City Planner is the zoning administrator for the City of Peculiar.
- **AMENDING THE ZONING CODE** – Occasionally a property owner wishes to do something that is not permitted by the zoning district in which the property is located. The property owner can either accept that the use is prohibited or propose a zoning change or zoning text amendment. An amendment can either be Commission-initiated (proposed by the Planning Commission) or citizen-initiated. For instance, a property owner may disagree with the uses that are permitted on a neighboring parcel. When these issues arise, the concerned citizen(s) can petition the Board of Aldermen for a change in the zoning regulations. Usually, this petition is in the form of a request to change the zoning designation on a parcel from one district to another. In other cases, the request may be to amend the language of the zoning ordinance itself. Such requests for zoning amendments are submitted to the City Planner and reviewed for conformance with the Comprehensive Plan. The amendment process is basically the same as that for the initial Zoning Code. The Planning Commission reviews the requested change in a public hearing and makes a recommendation to the Board of Aldermen, who then reviews the requested change in another public hearing and ultimately approves or denies the request.
- **PLANNING COMMISSION** – The Planning Commission (“Commission”) has many functions beyond Zoning. However, once a zoning ordinance has been adopted, a substantial part of its time is spent addressing zoning issues. The Commission is comprised of seven appointed citizen volunteers who serve four-year terms. The Commission serves in an advisory role to the Board of Aldermen, making recommendations on all requests for a change of zoning, as well as all special permit applications. As part of their critical role, the Commission is dependent upon the active involvement of city staff and the public in order to forward to the Board of Aldermen a meaningful recommendation.

- BOARD OF ALDERMEN – The Board of Aldermen (“Board”) is the governing body of Peculiar, and consistent with that role, they have the final say over zoning applications. When acting on a request for a zoning change, the Board of Aldermen has the authority to change the text of any portion of the Zoning Code, as well as change the zoning designation on any parcel of land within Peculiar. When acting on a request for a special permit, the Board has the authority to impose on the permittee any conditions or limitations as it deems necessary to maintain consistency with the Comprehensive Plan, Zoning Code and to protect the health, safety, and general welfare of the citizens of Peculiar.

ZONING APPEALS

- BOARD OF ADJUSTMENT – The Board of Adjustment (“BoA”) is an important body in zoning administration. The BoA acts in an appellate role, as a quasi-judicial administrative body whose decisions affect private property rights in the same manner as those of a court of law. The Board of Adjustment does not enact laws like the Board, or enforce laws like the Zoning Administrator (City Planner). The most important function of the BoA is a relief valve in situations where particular zoning provisions may lead to hardships by allowing modifications, or variances, of the Zoning Code. In doing so, the BoA is not merely adjudicating the rights of two contending parties (the City and applicant), but is the representative for the public interest. Its decisions should be driven by what is best for the community. The review criteria for the BoA is based on Missouri State Statute {Sections 89.080-89.110 RSMo} and codified in the Peculiar Municipal Code.
- APPEAL TO THE BOARD OF ADJUSTMENT (“BOA”) – An appeal involves a situation where a party alleges the Zoning Administrator has made an error in the interpretation of the Zoning Code in a specific case. The function of the BoA in an appeal is to make a judgment as to the interpretation of the zoning provisions in context of the facts of the particular appeal presented. In an appeal, the BoA has no authority to set aside any zoning provisions or require the issuance of a permit that violates the terms of the Zoning Code.
- VARIANCE – The most common action of the BoA is to grant a “variance.” A variance is a modification of the strict terms of the Zoning Code, meaning the BoA has the authority to set aside certain regulations in certain cases, but does not have the authority to amend the Zoning Code. The BoA cannot grant variations to the use of land, only to the dimensional requirements, such as setbacks and height. Decisions of the BoA are subject to review in the circuit courts, but not by the Board of Aldermen. The Board of Aldermen cannot revoke or modify a decision of the BoA, and it cannot direct the BoA to render a particular decision in a specific case. If the Board of Aldermen believes the BoA is in error, it may seek remedy through the judicial system.