

MEMORANDUM

TO: Chairman Wolfe and Members of the Plan Commission

FROM: Matthew S. Dabrowski, Development Planner

DATE: February 13, 2013

RE: PC #13-001, Chapter 28 Text Amendment-Special Use Waiver for Restaurants

Background

In our continuing effort to modify certain code provisions within Chapter 28 to streamline the development review process, the following text amendments are being proposed to establish a special use waiver process to administratively approve certain types of restaurants. This waiver process, which is similar to the Special Use Waiver for Antenna Structures, would only apply to the following uses:

1. Sit-down restaurants that are no larger than 1,500 square feet
2. All carry-out only restaurants, regardless of size
3. Outdoor café in conjunction with a legally established restaurant

Also attached for your review is the following information

- Proposed text amendments to Chapter 28 relative to the aforementioned request (Note that code deletions are highlighted in red and struck through, while additions are in bold and highlighted in yellow).
- The special use waiver checklist, which will be use to determine administrative approval.
- List of special use requests for restaurants that had gone through the public hearing process over the past 7 years.
- Northwest Municipal Conference survey of restaurant standards in other nearby communities.

Ordinance Review Committee

On January 23, 2013, the proposed text amendments were presented to the Ordinance Review Committee for their consideration and recommendation. Pursuant to said meeting the following recommendation was made:

A motion was made by Commissioner Jensen and seconded by Commissioner Green to recommend to the full Plan Commission approval of the amendments to various sections within Chapter 28 relative to restaurants. All were in favor. Motion carried.

Thank you.

CHAPTER 28 TEXT AMENDMENTS: SPECIAL USE WAIVER FOR RESTAURANTS

SECTION DEALING WITH OUTDOOR SEATING:

AMEND: Section 5.1-10.1, Conditions of Use:

b. All activities **except for items (j) of this section and** automobile off-street parking facilities permitted or required in this B-1 District shall be conducted wholly within an enclosed building.

j. Outdoor eating cafes on private property in the B-1 District are subject to the special use waiver approval process as outlined in Section 8.7 and the following conditions:

1. An application for a special use or special use waiver must be submitted to the Planning and Community Development Department for review;
2. Outdoor cafes may only be as an incidental use to an existing restaurant that has obtained a special use permit or special use waiver from the Village;
3. All tables, chairs and other appurtenance shall be constructed in such a manner that they can be easily removed during winter months and/or if required by the Village;
4. The sale and consumption of alcoholic beverages in the outdoor café shall be restricted by the liquor license governing the restaurant;
5. The outdoor café shall not be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity;
6. The operation of the outdoor cafes shall be permitted between the hours of 6:00 AM and 11:00 PM;
7. the proprietor shall provide adequate outdoor refuse disposal as required by the Village's Health Department;
8. The following design criteria shall be applied to all outdoor café petitions;
 - a. Canopies that are attached to the building will be permitted when in conformance with the regulations outlined in Section 30-602 of the Municipal Code;
 - b. All outdoor furnishing shall be designed to withstand a wind pressure of not less than 30 pounds per square foot;
 - c. Outdoor furnishings, materials and their color should be selected for continuous harmony and aesthetic quality with the adjoining buildings and streetscape. Materials shall be of durable quality such as wrought iron; light gauge materials like aluminum and plastics shall be generally discouraged. Weather resistant wood is allowed only as a secondary accent material;
 - d. Colors shall be harmonious; brilliant or bright colors shall be used only for accent;
 - e. Materials and finishes shall be selected for their durability and wear as well as for their beauty. The table surface shall be smooth and easily cleanable. Proper measures shall be taken to correct damage or decline due to the elements, neglect or abuse.

AMEND: Section 5.1-11.1, Conditions of Use:

f. Outdoor eating cafes on private property in the B-2 District are ~~special use amendments~~ subject to the **special use waiver approval process as outlined in Section 8.7** and the following conditions:

1. An application for a special use ~~permit~~ **waiver** must be submitted to the Planning **and Community Development** Department for review;
2. Outdoor cafes may only be as an incidental use to an existing restaurant that has obtained a special use permit or **special use waiver** from the Village;

AMEND: Section 5.1-12.1, Conditions of Use:

f. Outdoor eating cafes on private property in the B-3 District are **special use amendments** subject to the **special use waiver approval process as outlined in Section 8.7** and the following conditions:

1. An application for a special use **permit waiver** must be submitted to the Planning **and Community Development** Department for review;
2. Outdoor cafes may only be as an incidental use to an existing restaurant that has obtained a special use permit or **special use waiver** from the Village;

AMEND: Section 5.1-14.2, Permitted Uses

b. 2. Outdoor eating cafes on private property in the Downtown District are **Special Permitted** Uses subject to the following conditions:

b.2.b. Outdoor cafes are permitted only as an accessory use to an existing restaurant that has obtained a special use permit **or special use waiver** from the Village.

SECTIONS DEALING WITH SPECIAL USE WAIVER:

AMEND Section 5.5-1, Permitted Use Table

PERMITTED-SPECIAL USES	B-1	B-2	B-3	B-4	B-5
RESTAURANT (see Additional requirements in use districts and in Section 8.7)	S	S	S		S

AMEND: Section 8.4 Procedure:

The procedure to be followed in considering applications for special use permits shall be those outlined in Sections **6.14-2.3, 8.7, 13,** and 17 of this code.

ADD: Section 8.7 Special Use Waiver for Restaurants

The special use requirement for a restaurant may be waived if the restaurant use is:

1. **A sit-down/carry out restaurant that is no larger than 1,500 square feet;**
2. **A carry-out only restaurant, regardless of size;**
3. **An outdoor café in conjunction with a restaurant that has been legally established either through the special use permit or special use waiver process;**

The Petitioner must submit detailed plans and application to the Planning and Community Development Department for an administrative review to determine if the special use public hearing can be waived. Applicant shall comply with application review criteria established by the Department. After review by the Planning and Community Development Department, the Village reserves the right to add other restrictions if there are impacts to surrounding property owners and/or require a public hearing review by the Plan Commission and approval by the Village Board.

ADD: Section 8.7-1, Building Permit Required

Approval of the special use waiver shall be subject to the submittal and issuance of a building permit.