

APPLICATION FOR VARIANCE/INTERPRETATION OF ZONING MAP/SPECIAL EXCEPTIONS

TO: City Council of the City of Rock Falls, Illinois

IN RE: Application of _____ for special
(Petitioner)
exception/interpretation of zoning map/administrative review/variance(strike inapplicable language).

_____, and _____, respectfully petition
(Petitioner) (Petitioner)

the City Council of the City of Rock Falls, Illinois, as follows:

1. Petitioners are the owners of the real property located at _____

(Address of Property)

which is legally described as: _____

NOTE: If Petitioners are not the owners of the real property, then the interest of Petitioners in the real property must be disclosed and all information pertaining to ownership and other interests in the property must be disclosed. Attach a separate sheet which details the right and interest of Petitioners in the real property.

2. Petitioners request a special exception//interpretation of zoning map//administrative review//variance (strike inapplicable language)for the purpose of (describe relief requested)

3. The special circumstances which Petitioners allege require the relief requested are as follows: _____

4. Petitioners request that the matter be referred to the Zoning Board of Appeals to conduct a hearing on the request in accordance with the provisions of Article IVI of the Zoning Ordinance of the City of Rock Falls.

Dated: _____

(Petitioner)

(Petitioner)

PETITION REQUESTING REZONING OF REAL ESTATE

TO: City Council of the City of Rock Falls, Illinois

IN RE: Application of _____
(Petitioner)

_____, and _____, Petitioners,
hereby respectfully petition the City Council of the City of Rock Falls, Illinois, as follows:

1. Petitioners are the owners of the real property located at _____

(Address of Property)

which is legally described as: _____

NOTE: If Petitioners are not the owners of the real property, then the interest of Petitioners in the real property must be disclosed and all information pertaining to ownership and other interests in the property must be disclosed. Attach a separate sheet which details the right and interest of Petitioners in the real property.

2. Said real property is presently classified under the Zoning Ordinance of the City of Rock Falls as _____
(Present Zoning Ordinance)

3. Petitioners request that the zoning classification of said real estate be changed to _____, and that the zoning map of the City of Rock Falls be amended to reflect such change.

4. Petitioners further request that the City Council refer this application to the Planning Commission of the City of Rock Falls for conducting a public hearing on the proposed change and amendment.

5. Petitioners have submitted, and placed on file with the Building Official of the City of Rock Falls copies of any proposed Ordinance for change of zoning or for amendment to the map, and/or copies of any and all maps or plans for the development proposed upon said real estate.

Dated: _____

(Petitioner)

(Petitioner)

Plan/Zoning Commission
Variance Apps/Petition Special Use
Guide for Residents

1. Fill out app for variance/special use petition (City Clerk Office) - Fee \$150.00 (New change effective 2/19/08)
2. Get a copy of Zoning Ordinance from Bldg Dept or visit city website: www.rockfalls61071.com - under Chapter 16 - Zoning
3. Guidelines from Ordinance:
 - a. Obtain a listing of adjacent property owners within 250' radius of the property - contact Tax Assessor's office in Morrison - 200 E. Knox St(Courthouse)-(815)772-5132
 - b. Cause notice of time/place of hearing by publication of a notice in newspaper not less than 15 days nor more than 30 days before hearing (not counting date of hearing). Petitioner's responsibility. - sample attached
 - c. Give notice delivered by registered or certified mail w/return receipt at least 5 days before the hearing to adjacent property owners. Petitioner's responsibility - sample letter attached.
 - d. Public examination - 15 days prior to hearing, copy of petition will be displayed at zoning/bldg official office.
4. Submit proof of newspaper publication/ mailing receipts to Bldg Dept 5 days before hearing for member's packets.
5. Be available to attend Council meeting designating petition referral to Plan/Zoning.
6. Be available to attend Plan/Zoning scheduled second Thursday of each month meeting for the Public Hearing of your petition. All paperwork must be in order BEFORE this meeting, otherwise your request could be declined.

These are guidelines only
More specific information will be found in the ordinance
which we have attached for your convenience

Any questions, please contact Sylvia (815)622-1110

Notice of Public Hearing

Notice is hereby given, by the Plan Commission of the City of Rock Falls, that

_____, has filed a petition for a **Special**
Name

Use/Zoning and/or **Variance** for the purpose of _____

_____. The property is located at

_____ and owned by _____
Address Owner Name

More specifically described, the real estate in the City of Rock Falls, Whiteside
County, Illinois to wit:

Insert legal description – OR attach same.

Notice is further given that these petitions will be heard before the **City of Rock
Falls Plan Commission** at the City Council Chambers, 603 W. 10th Street, Rock
Falls, Illinois (INSERT DATE) at 5:30p.m.

Plan Commission of the City of Rock Falls, Illinois, by Charles Koehler,
Chairman.

Date: _____

Fill in with appropriate information.

Date:

Name
Address

Re: Your Name/Address
Petition for Variance/Special Use/Rezoning

Dear _____:

This letter is written to inform you that I am applying for the above named petition for property located at _____

According to City of Rock Falls Ordinances, property owners within a 250' radius have to be notified of my intentions. I am planning to request a _____

This Public Hearing will be held Thursday, _____ at 5:30p.m. before the Planning Commission at the Council Chambers – 603 W. 10th St., Rock Falls, IL.

Your input regarding my petition would be appreciated. Thank you.

Sincerely,

Signature
Address

ARTICLE XVI. - ZONING BOARD OF APPEALS**Sec. 16-340. - Creation, membership and procedure.**

- (a) A zoning board of appeals consisting of seven (7) members shall be appointed by the mayor and approved by the city council in accordance with the provisions of Ill. Rev. Stat. Chapter 24, Division 11-13-3. At least two (2) such members shall be named from among the members of the city planning commission. The appointing authority may remove any member of the board for cause and after public hearing. Any reference within this chapter 16 to the "plan commission" shall mean and refer to the zoning board of appeals, and hereafter the plan commission and zoning board of appeals shall be one and the same body for all purposes of this chapter 16.
- (b) The board shall elect its own chairperson and have the power to adopt rules and regulations for its own government, not inconsistent with law or with the provisions of this chapter or any other ordinances of the city. Meetings shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or in his/her absence, the acting chairperson, may administer oaths and compel attendance of witnesses. The city administrator or his/her designee shall act as the board's secretary.
- (c) Meetings of the board shall be open to the public; minutes shall be kept of proceedings, showing the action of the board and the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and records shall be made of the board's examinations and other official actions, all of which shall be filed immediately in the office of the board as a public record.
- (d) Four (4) members of the board shall constitute a quorum. The board shall act by resolution, and the concurring vote of four (4) members shall be necessary to reverse any order, requirement, decision or determination of the building official, or to decide in favor of any applicant any matter upon which it is required to pass under this chapter, or to effect any variation in the requirements of this chapter.
- (e) The board may call on the city departments for assistance in the performance of its duties, and it shall be duty of such departments to render such assistance to the board as may reasonably be required.
- (f) *Powers of the board.* The board shall have jurisdiction in matters and shall have the specific and general powers provided in this chapter. Where the board is directed to recommend, such recommendations shall be made to the city council for final decision. Any recommendation by the board as authorized by ordinance shall be presented to the city council at the next regularly-convened meeting following the hearing of the board at which the recommendation is made. The report of the board to the city council shall be in writing and shall include a statement of the necessary findings and evidence. The report shall also state the names of all persons appearing before the board in favor of, or opposition to, the proposal. The city council shall have power to adopt, and from time to time, amend rules for the consideration of recommendations from the zoning board of appeals.
 - (1) *Special exceptions and interpretation of map.* The board shall have the power to hear and recommend, in accordance with the provisions of this chapter, requests or applications for special exceptions or for interpretation of the zoning map or for matters upon other special questions upon which the board is authorized to recommend.

- a. *Special exceptions.* In addition to recommending the special exceptions heretofore specified in this report, the board shall have authority to recommend the following:
 1. *Nonconforming uses.* The substitution of a nonconforming use for any other nonconforming use, if no structural alterations except those required by law or ordinance are made; provided, however, that any use so substituted shall be of the same or a more restricted classification.
 2. *Temporary uses and permits.*
 - (i) The temporary use of a building or premises in any district for a purpose or use that does not conform to the regulations prescribed by this chapter, provided that such use be of true temporary nature and does not involve the erection of substantial buildings. Such permit shall be granted by city council in the form of a temporary and revocable permit for not more than twelve-month period, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.
 - (ii) The temporary use of a building or premises in undeveloped sections for a purpose that does not conform to the regulations prescribed by this chapter, provided that such structure or use is of a true temporary nature, is promotive of or incidental to the development of such undeveloped sections, and does not involve the erection of substantial building. Such permit shall be granted by city council in the form specified under subsection 16-340(f)(1)a.1.(i)(a).
- b. *Interpretation of map.* Where the street or lot layout actually on the ground or as recorded, differs from the street and lot lines indicated on the zoning map, the board, after notice to the owners of the property and after public hearing, shall interpret the map in such a way as to carry out the intent and purposes of this chapter for the particular section or district in question and recommend action to the city council.
- c. *Certain industries in M-2 districts.* In prohibiting certain industries under section 16-223, the board shall give due regard to the nature and condition of all adjacent uses and structures. The board shall determine whether the proposed use would be hazardous, harmful, noxious, offensive, or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust or dirt, noxious gases, glare and health, fire and safety hazards, wastes, electromagnetic radiation and transportation of traffic. The board may utilize and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering research organizations, and can be applied to the proposed use, to assist the city council in reaching a fair and objective decision.
- d. *Communications tower special use.* The granting of a special use for a communications tower is subject to the following provisions which are intended to allow communications towers for mobile telephone services and other radio and television information services while minimizing adverse visual and operations effects of such towers through careful design, placement and screening; to avoid potential damage to adjacent properties from tower failure and falling ice, through engineering and careful siting; and, to maximize use of any new communications towers to reduce the number of towers needed, and the

board, in determining whether to recommend to the city council the granting of an application for siting of a communications tower, shall consider and make findings upon the following specific requirements:

- i. The applicant shall demonstrate, using technological evidence, that the communication tower must be placed where proposed in order to satisfy and perform its intended function;
- ii. If the applicant proposes to construct or build a new tower (as opposed to mounting the antenna on an existing structure), the applicant shall demonstrate that he or she has contacted the owners of tall structures within a one-quarter ($\frac{1}{4}$) mile radius of the site proposed, has asked for permission to install the antenna on those structures, and was denied permission for reasons other than economic. Structures contemplated shall include smoke stacks, water towers, tall buildings, antenna support structures of other cellular communications companies, other communication towers (fire, police, etc.), and other tall structures. The board may recommend denial of the application if the applicant has not made a good faith effort to mount the antenna on an existing structure which is suitable for that purpose;
- iii. The applicant shall demonstrate that the tower and antenna are the minimum height required to function satisfactorily;
- iv. All setbacks required shall be measured from the base of the tower to the property line or street right-of-way. If a tower is proposed to be placed on a leased portion of a larger lot which is owned by someone other than the tower owner, setbacks shall be measured from the boundaries of such larger lot and (1) communication towers must be set back from all property lines by a minimum distance of one hundred (100) percent of the height of the tower plus twenty-five (25) feet, and (2) no setbacks shall be required if the antenna is to be located on an existing structure.
- v. A separation of one thousand five hundred (1,500) feet shall be required to be maintained between communications towers (measured by drawing a straight line between the base of the existing tower and the base of the proposed tower as shown on the site plan).
- vi. The applicant shall demonstrate that the communications tower and antenna will be constructed in a structurally sound and safe manner, and that surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All communication towers shall be fitted with anti-climbing devices, as approved by the manufacturer thereof.
- vii. A fence of not less than eight (8) feet in height shall be required around the base of the communication tower.
- viii. Landscaping shall be required to screen as much as possible the support structure, the fence surrounding the support structure, and any other ground level features (such as a building), including:
 1. An evergreen screen shall be required to surround the site. The screen may be either hedge (planted three (3) feet on center maximum) or a row of evergreen trees (planted ten (10) feet on center maximum). The evergreen screen shall be a minimum height of six (6) feet at planting, and shall grow to a minimum of fifteen (15) feet at maturity;

2. Any combination of existing vegetation, topography, walls, decorative fences or other features may be used if the same degree of screening is achieved as the required landscaping;
 3. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.
 - ix. Adequate on-site parking shall be required for all maintenance operations.
 - x. Unless the FAA imposes specific marking requirements, all communications towers shall be silver or shall have a galvanized finish in order to reduce visual impact.
 - xi. No communications towers shall be artificially lighted except when required by FAA. If lighting is required, dual mode lighting (intermittent red lighting for nighttime use and high intensity lighting for daytime use) shall be installed. Security lighting shall be permitted at ground level, provided that all lighting shall be designed so as not to project onto surrounding residential property.
 - xii. All other uses ancillary to the communications towers and associated equipment (including a business office, maintenance depot, vehicle storage, etc.) are prohibited unless otherwise permitted in the zoning district in which the tower is located.
 - xiii. No commercial advertising or signs shall be allowed on communications towers.
 - xiv. A small site plan shall be provided to the city for all communications towers, showing the site boundaries, type and elevation of tower, fencing, buffering, access, lighting and any buildings or other ancillary equipment.
 - xv. The city may impose additional restrictions to ensure that the purpose and intent of this section is met. Such restrictions may include, but not necessarily be limited to, the following:
 1. Alternate colors;
 2. All additional setback;
 3. Type of construction, e.g. monopole vs. lattice;
 4. Site lighting requirements;
 5. Location of accessory buildings;
 6. Additional landscaping or buffer.
- (2) *Administrative review and variances.* The board of appeals also shall have power to:
- a. *Administrative review.* To hear appeals where it is alleged by the appellant that there is error in any order, requirement, decision, grant or refusal made by the building official in the enforcement of the provisions of this chapter and to recommend action to the city council.
 - b. *Variances.* To recommend to the city council after appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done, as follows:
 1. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enforcement of this chapter, or by reason of exceptional topographic conditions, or other extraordinary and exceptional situation or condition of such piece of property, or of the use or development of property immediately

- adjoining the piece of property in question, the literal enforcement of the provisions of this chapter would result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of such property, unnecessary to carry out the spirit and purpose of this chapter, the board shall have the power to recommend, upon appeal, a variance from such strict application, so as to relieve such difficulties of hardships, and so that the spirit and purpose of this chapter shall be observed and substantial justice done. In recommending a variance the board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure or use as it may deem advisable in the interest of the furtherance of the purposes of this chapter.
2. No such variance in the provisions or requirements of this chapter shall be authorized by the city council unless the council finds by clear and convincing evidence that all of the following conditions exist:
 - (i) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district.
 - (ii) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity.
 - (iii) The authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest.
 3. No grant or variance shall be authorized unless the city council finds that the condition or situation of the specific piece of property for which the variance is sought is not of so typical or recurrent a nature as to make reasonably practicable the formulation of a general regulation, under an amendment of this chapter, for conditions or situations.
 4. The council shall have no power to authorize a variance for the establishment of a nonconforming use where none previously existed.
- (3) *City council action.* No variation in any specific case shall be made by the city council without a hearing by the zoning board of appeals as required in subsection 16-341(c) nor without a report thereof having been made by the board to the city council, and every such report shall be accompanied by a finding of fact specifying the reasons for the report.
- a. Upon the report of the zoning board of appeals, the city council, without further public hearing, may adopt or deny any proposed variation or may refer the report back to the board for further consideration. Any proposed variation which fails to receive the approval of the four (4) members of the zoning board of appeals shall not be passed except by the favorable vote of three-fourths (¾) of all the elected members of the city council. In making any variations the city council shall be governed by the same considerations and restrictions as the variations in particular instances under subsection 16-340(f)(2)b.

(Ord. No. 93-1658, § 2(16.0), 4-19-93; Ord. No. 97-1827, § 6, 12-2-97; Ord. No. 2013-2136, § 2, 1-21-14)

Sec. 16-341. - Applications and appeals.

- (a) An application to the board, in cases in which it has original jurisdiction under the provisions of this chapter, may be taken by any property owner, including a tenant or by any governmental officer, department, board or bureau. Such application shall be filed with the building official, together with a fee of one hundred fifty dollars (\$150.00), who shall transmit the same, together with all the plans, specifications, and other papers pertaining to the application to the board.
- (b) An appeal to the board may be taken by any property owner, including a tenant, or by any government officer, department, board or bureau affected by any ruling of the building official. Such appeal shall be taken within sixty (60) days by filing with the building official a notice of appeal specifying the grounds thereof. The building official shall forthwith transmit to the board such notice of appeal, together with all the plans and papers constituting the record upon which the action appealed from was taken. A fee of one-hundred and fifty dollars (\$150.00) shall also accompany the appeal.
- (c) The board shall fix a reasonable time for the hearing of an application or of an appeal. The applicant or appellant shall cause notice of the time and place of such hearing to be given at least fifteen (15) days in advance of the hearing by publication of a notice in a newspaper published in the community, and shall also give notice delivered by registered or certified mail with a return receipt at least five (5) days before the fixed for such hearing to the respective owners of record of property within two hundred fifty (250) feet of the premises in question. The notice to be published and to be mailed shall contain a description of the property sufficiently detailed for the same to be identified as to location, shall contain the usual street address affixed to the property, shall specify the name of the applicant or appellant, shall specify the nature of the application or appeal and the relief sought, and shall specify the date, time and place of the hearing. Any party may appear at such hearing in person or by agent or by attorney. The board shall recommend the granting or denial of the application or appeal within a reasonable time.

In addition, the applicant or appellant shall cause to be placed upon the premises which is the subject of the application or appeal, a sign which reads "Notice: this property is the subject of a proposed zoning change. Information may be obtained from the building official." The sign shall be posted upon the premises not more than thirty (30) nor less than fifteen (15) days prior to the scheduled hearing time. The sign shall be posted at a point as close to the front property line as practicable, and in a manner to be visible from the street upon which the premises fronts. The sign shall be provided by the city for loan to the applicant, and shall be removed from the premises within five (5) days following the hearing and returned to the city.

- (d) An appeal shall stay all proceedings in furtherance of the action appeal from, unless the building official certifies to the board that by reason of facts stated in the certificate, a stay would in his/her opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by an order which may, on due cause shown, be granted by the board on application, after notice to the building official, or by a court of competent jurisdiction.

(Ord. No. 93-1658, § 2(16.1), 4-19-93; Ord. No. 94-1705, § 1, 5-16-94; Ord. No. 2004-2104A, § 2, 9-21-04; Ord. No. 2008-2264, § 1, 2-19-08)

Sec. 16-342. - Judicial review.

All final administrative decision of the city council shall be subject to judicial review pursuant to the provisions of the "Administrative Review Act," approved May 8, 1945, and all amendments and modifications thereof, and the rules adopted pursuant thereto.

(Ord. No. 93-1658, § 2(16.2), 4-19-93)

Secs. 16-343—16-359. - Reserved.