

BILL 10145

ORDINANCE 10011

AN ORDINANCE AMENDING THE SPECIAL USE PERMIT GRANTED TO THE MAGIC HOUSE SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, the Magic House made application (PZ-13-11) for an amendment to its Special Use Permit granted by Ordinance 6098, 6512, 7169, 7553, 7880, 8159, 8350, 8897, and 9484 for the purpose of revising the hours and restrictions for outdoor activities; and

WHEREAS, the Planning and Zoning Commission did on the 16th day of March, 2011, by adopting the subcommittee report dated March 16, 2011, (attached hereto and incorporated by reference herein), recommend the granting of said Special Use Permit amendments subject to certain conditions and did find that granting of said amendments would not substantially increase traffic hazards or congestion, would not substantially increase fire hazards, would not adversely affect the character of the neighborhood, would not adversely affect the general welfare of the community, and would not overtax public utilities, and that granting such amendments would be consistent with the zoning laws; and

WHEREAS, the Council did on the 21st day of April, 2011, hold a public hearing with respect to such application after duly advertising and giving proper notice of such hearing and does find that the granting of such permit, subject to certain conditions, would not substantially increase traffic hazards or congestion, would not substantially increase fire hazards, would not adversely affect the character of the neighborhood, would not adversely affect the general welfare of the community, and would not overtax public utilities; and

WHEREAS, the Council does further find that the general welfare requires that such permit be subject to the conditions hereinafter set out.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, AS FOLLOWS:

SECTION 1. A Special Use Permit Amendment is granted to the Magic House for the Magic House to extend the hours for outdoor activities and to allow amplified sound in front of the building subject to the following conditions:

1. An 8-foot tall sight proof concrete fence shall be constructed in place of the existing board-on-board fence along the eastern property line which recently suffered considerable storm damage.
2. A permanent sign generally containing the language reflected in Exhibit "A" attached hereto shall be placed at the entrance of the Magic House parking lot along Woodbine Avenue.

3. In the event that the Magic House parking lot reaches full capacity, Magic House shall place temporary signs along Woodbine that states to the effect “Magic House parking at Nipher Middle School” and “Magic House parking at Concordia Lutheran Church”.
4. Outdoor activities shall be permitted as follows:
 - a. In front of the building:
9:30 a.m. till 10:00 p.m. year round
 - b. Behind the front building line:
9:30 a.m. till 8:00 p.m. April 1 through October 31
9:30 a.m. till 5:30 p.m. November 1 through March 31
5. Outdoor music and amplified sound shall be permitted as follows:
 - a. In front of the building:
9:30 a.m. till 10 p.m. year round
 - b. Behind the front building line:
Not permitted. No loud speakers, sound systems, orchestras, bands, choirs, or the playing of any musical instruments shall be permitted outside except as outlined in subsections c and d below.
 - c. A speaker with volume adjustable by a Magic House employee and used to communicate with guests of the Magic House in the semi-enclosed area commonly referred to as the Construction Zone is permitted. The speaker design and installation must be in such a manner as to minimize the amount of sound audible outside of the Construction Zone, and specifically at the eastern most property line. Magic House shall submit to the Director of Public works for approval, prior to installation, a written design specification from a sound engineer or other qualified entity indicating the proposed speaker installation has been designed to fulfill this requirement.
 - d. Two way radios (walkie-talkies) whose primary purpose is to communicate between Magic House employees shall be allowed in all outside areas.

SECTION 2. All previous conditions of approval associated with the Magic House property shall remain in effect as applicable, except as amended herein.

SECTION 3. The approval of this special use permit amendment shall not authorize any person to unreasonably alter, increase, or redirect the surface water run off so as to cause harm to any person or property.

SECTION 4. The premises and improvements as approved by this Special Use Permit Amendment shall be in good working order and maintained in good repair at all times.

SECTION 5. The applicant by accepting and acting under the Special Use Permit Amendment herein granted accepts the permit subject to the reservations, restrictions, and conditions set forth in the Code of Ordinances and in this Ordinance and agrees to comply with each provision subject to the penalties prescribed under Section 1-8 of the Code of Ordinances and subject to revocation of this permit in the event such provisions are not complied with.

SECTION 6. The applicant and his successors and assigns by accepting and acting under the approval herein granted accepts the approval subject to the condition that failure to abate any violation of this approval or any provisions of the Code of Ordinances of the City of Kirkwood within five (5) days after notice by hand delivery or first-class mail shall result in an administrative investigation fee of \$500 due to the City of Kirkwood. An invoice shall be issued. A Stop Work Order to cease all work on the premises except such work as directed by the Public Works Director to abate the violation may be issued for any work on the premises until the investigation fee is paid in full. The City may demand payment of said fee from the holder of the letter of credit, any bond, or escrow if not paid within 30 days of the invoice.

SECTION 7. The applicant further agrees by accepting and acting under this Special Use Permit Amendment herein granted that this Ordinance does not grant applicant any special rights, privileges, or immunities

SECTION 8. This ordinance shall become null and void in the event the petitioner does not obtain a building permit for the construction of the fence required by this ordinance within one year of the passage of this ordinance. .

SECTION 9. This ordinance shall be in full force and effect after its passage and approval, as provided by law.

PASSED AND APPROVED THIS 19TH DAY OF MAY 2011.

Mayor, City of Kirkwood

ATTEST:

City Clerk

1st Reading: May 5, 2011

2nd Reading: May 19, 2011