

Sec. 117-4. - Purpose.

The zoning regulations set forth in this chapter are enacted to aid in the implementation of the land use portion of the comprehensive plan for the city and to promote, in accordance with present and future needs, the safety, order, convenience, prosperity, and general welfare of the citizens of the city. The regulations are intended to provide for orderly growth and development; for protection of the character and stability of residential, commercial, industrial, recreational, and environmentally sensitive areas of the city; for protection of property from blight and undue depreciation; for efficiency and economy in the process of development for the appropriate and best use of land; for the use and occupancy of buildings; for healthful and convenient distribution of population; for good civic design and arrangement; and for adequate public utilities and facilities.

(Zoning Ord., § 14.04.03)

Sec. 117-5. - Jurisdiction.

The provisions of the chapter shall apply to all land, buildings and structures within the corporate limits of the city as they now, or may hereafter exist.

(Zoning Ord., § 14.04.04)

Sec. 117-6. - Nature and application.

(a) For the purposes stated in section 117-4, the city has been divided into zoning districts in which the regulations contained herein will govern:

- (1) Lot coverage;
- (2) The height, area, bulk, location, and size of buildings;
- (3) Open space; and
- (4) The uses of land, buildings, and structures.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, order, convenience, prosperity, and general welfare. Whenever these requirements are at variance with the requirements of any other lawfully adopted rules or regulations, the most restrictive, or that imposing the higher standards, shall govern; provided however, that the city shall not be responsible for enforcing deed restrictions or covenants.

(b) No land shall be used or occupied, no structure shall be erected, moved, converted, altered, enlarged, used or occupied, and no use shall be operated, unless it is in conformity with the regulations herein prescribed for the district in which such structure or land is located. This provision shall not be construed to affect any lawful uses of land or structures that exist, or for which a lawfully issued permit has been issued, at the effective date of the ordinance from which this chapter is derived.

(c)

No proposed plat of any new subdivision of land shall hereafter be considered for approval unless the lots within such plat equal or exceed the minimum size and area requirements specified in the applicable zoning district in which the land is located.

- (d) No open space required by these regulations for a particular structure or use shall be claimed at the same time as open space for another structure or use.
- (e) Dedication to public use of land shall not be a condition for any zoning or conditional use approval.
- (f) All structures constructed or occupied in conformance with this chapter shall also conform to all other codes and regulations of the city.

(Zoning Ord., § 14.04.05)

Sec. 117-34. - Amendments.

Two types of amendments to this zoning chapter are recognized; one being a revision in the textual provisions of the chapter, and the other being a change of boundary in a zoning district.

- (1) *Amendment to text.* Amendments to the text may be initiated by the planning commission, the city council, or by the mayor. Proposed amendments shall be processed in accordance with the procedures set forth in this section.
 - a. *Notice.* The city planner shall be responsible for scheduling a public hearing before the planning commission. He shall prepare the content of a public notice, and ensure that the notice is published in a newspaper of general circulation with the city at least 15 days before the public hearing.
 - b. *Hearing and recommendation by the planning commission.* The planning commission shall conduct a public hearing on the proposed amendment, hearing both the proponents and opponents, if any. Following the public hearing, the commission shall determine its recommendation regarding the proposed amendment and make such known to the city council.
 - c. *Action by the city council.* After receiving the recommendation of the planning commission, the city council:
 1. May approve the amendment as submitted;
 2. May approve a revised version they deem appropriate;
 3. Refer it back to the planning commission for further study and consideration;
 4. Table it; or
 5. Deny it.If the city council action does not take place within six months after the planning commission's public hearing, the amendment process must begin anew.
- (2) *Change in district boundary.* A change in a district boundary, also referred to as a map amendment or a rezoning, may be proposed by the city council, the planning commission, or by a property owner or his legal agent. Such amendments shall be considered in accordance with the procedures set forth in this section.
 - a. *Application submittal.* A complete application for change in district boundary or map amendment, hereafter referred to as a rezoning, shall be submitted to the city planner in a form established by him, along with a nonrefundable processing fee established in section 117-35. Applications shall be filed by the 17th of the month in

order to be placed on the planning commission agenda for the subsequent months meeting, which is held on the second Tuesday thereof. No application shall be processed until the city planner determines that the application is complete and the required fee has been paid.

b. *Notice.*

1. Promptly upon determining that the application is complete, the city planner shall schedule a public hearing date before the planning commission, notify the applicant of the hearing date, and provide at least 15 days notice of the hearing in a newspaper of general circulation in the city. The notice shall indicate the time and place of the public hearing; give the general location and description of the property, such as the street address and acreage involved; describe the nature, scope and purpose of the application; and indicate where additional information about the application can be obtained.

2. The applicant shall:

- (i) Post notice on weatherproof signs provided by the city;
- (ii) Place the signs on the property that is the subject of the application at least ten days before the public hearing; and
- (iii) Ensure that the signs remain continuously posted until a final decision is made by the city council. At least one sign shall be posted by the applicant for each 150 feet of street frontage, up to a maximum of five signs. Signs shall be placed along each abutting street in a manner that makes them clearly visible to neighboring residents, and passersby. There shall be a minimum of one sign along each abutting street.

c. *Hearing and recommendation by the planning commission.* The planning commission shall hold a public hearing on the proposed rezoning. At the conclusion of the hearing, and after deliberation, the commission shall recommend approval as submitted; may recommend approval of less area and/or of a lesser intense, but like classification than what was applied for; table with cause, not to exceed one time for consideration at the next meeting; or deny the application, and submit an accurate written summary of the proceedings to the city council.

d. *Hearing and action by the city council.* After the planning commission recommends approval of an application, the applicant shall be responsible for preparing the appropriate ordinance and requesting that the city clerk place it on the city councils

agenda. Agenda item requests and all documentation shall be submitted in a form established by the city clerk, and be accompanied by a publication fee prescribed by law.

1. If the planning commission does not recommend approval of an application, the city council may consider the matter after an appeal is filed by the property owner with the city clerk, and a special public hearing is set and subsequently held. Applicant responsibility with regard filing documents with the city clerk and paying said fee as is also applicable.
 2. In considering an application for approval, whether on appeal or not, the city council may reduce the amount of land area included in the application, but not increase it and may change the requested classification in whole or in part, to a less intense zoning district classification than was indicated in the planning commissions required public notice.
- e. *Approval criteria.* The criteria for approval of a rezoning are set out in this subsection. Not all of the criteria must be given equal consideration by the planning commission or city council in reaching a decision. The criteria to be considered shall include, but not be limited to, the following:
1. Consistency of the proposal with the comprehensive plan;
 2. Consistency of the proposal with the purpose of this chapter;
 3. Compatibility of the proposal with the zoning, uses and character of the surrounding area;
 4. Suitability of the subject property for the uses to which it has been restricted without the proposed zoning map amendment;
 5. Extent to which approval of the proposed rezoning will detrimentally affect nearby property including, but not limited to, any impact on property value, traffic, drainage, visual, odor, noise, light, vibration, hours of use/operation and any restriction to the normal and customary use of the affected property;
 6. Length of time the subject property has remained vacant as zone, as well as its zoning at the time of purchase by the applicant; and
 7. Impact of the proposed development on community facilities and services, including those related to utilities, streets drainage, parks, open space, fire, police and emergency medical services.

f.

Successive applications. In the event that the city council denies an application for a rezoning, a similar application shall not be considered by the planning commission for six months from the date of the denial by the city council, unless the planning commission, upon recommendation by the city planner, determines that there is a significant change in the size or scope of the project, or that conditions have changed in the area affected by the proposed rezoning.

g. *Withdrawal of application.*

1. Only one withdrawal shall be allowed as of right after the 24th day of the month following the application filing for a rezoning, annexation or conditional use;
2. On or after the second time withdrawal granted, the applicant must wait 90 days before resubmitting the same or similar petition involving the same land use, and, under extenuating (emergency) circumstances, the planning commission or city council may consider and grant a request to waive the 90-day restriction on the second time request for withdrawals;
3. Third-time withdrawal requests will default to the most current ordinance requirement for denied rezoning petitions.

(Zoning Ord., § 14.44.05; Res. No. 08:126, 8-19-2008)

Sec. 2-93. - Bring ordinances before council.

- (a) Once an item is brought before the city council, there shall exist a three month time limit within which to obtain a ruling by the city council. Failure to meet the deadline will result in the item not being brought before the council again for a one-year period, and starting the procedural process over.
- (b) Once an item has been tabled or pulled three times, the item may not be brought before the council again for a one-year period, and must start the procedural process over.
- (c) Once the Metropolitan Area Planning Commission has granted approval, there shall exist a six-month time limit for bringing the matter before the council.

(Ord. No. 09:001, § 1(2.20.10), 1-20-2009)

State Law reference— Ordinances, A.C.A. § 14-55-101 et seq.