

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 the 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 know 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 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 according to the submittal schedule available online or in the planning office in order to be placed on the planning commission agenda for the subsequent meeting. 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) **Notify all property owners within 200' by certified mail return receipt requested 15 days prior to the meeting;**
  - (iii) **Provide notification to the school district serving the area by sending notice to the Superintendent of the School District of the zoning request. The school board shall send their opinion in writing to the office of the city planner within 15 days. Lack of a response will be considered as "no opinion" when considering the request.**
  - (iv) Place the signs on the property that is the subject of the application at least 15 days before the public hearing; and
  - (v) 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 passerby. 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 council's agenda. Agenda item request 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 to 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 that 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 criteria must be given equal consideration by the planning commission or city council in reaching a decision. **If any project doesn't meet all the criteria in this section the planning commission or city council can require the owner to provide additional information to determine if the rezoning should move forward. Additional information may include but not be limited to; traffic studies, drainage considerations, crime reports, noise and light studies, wetlands and historical considerations.** The criteria to be consider 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 **including adjacent neighbors that have a direct impact to the property;**
  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 zoned, 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, emergency medical services, **and school districts.**
- 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 by the proposed rezoning.
- g. *Withdrawal of application.*
1. Only one withdrawal shall be allowed as a right 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.