

## **Sec. 125-49 Text or Map Amendment (Rezoning)**

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### **Sec. 125-49.A. Application Required**

Any proposal to amend, supplement or change the regulations or restrictions of this Ordinance, or the boundaries of the zoning districts, shall be filed with the Planning and Zoning Commission, in accordance with the Planning Department's established rules of procedure. An application may be filed by the owner of property or his authorized agent, or by the City Planner or designee. All applications shall include such submittal requirements as a statement of the reason(s) why the amendment (rezoning) is being requested, the legal description of the property including a copy of a plat or a survey, and other information or documentation necessary to process the application as required by the City Planner or designee, Planning and Zoning Commission, or the City Council.

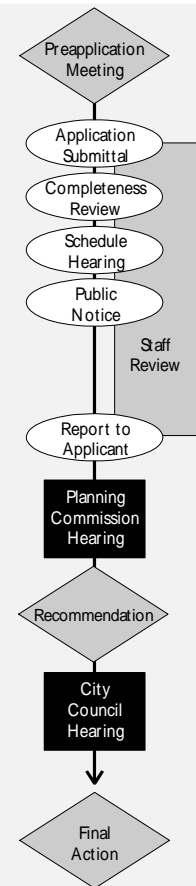
### **Sec. 125-49.B. Fee Required**

Applications shall be accompanied by the appropriate filing fee. No fee shall be charged for proposals filed by the City Planner or designee.

### **Sec. 125-49.C. Notice**

The City Council may from time to time amend, supplement or change, by ordinance, the regulations, restrictions or boundaries of such districts herein or subsequently established. A public hearing shall be held by the City Council before adopting any proposed amendment, supplement or change.

1. **Written Notice.** Written notice of all public hearings before the Planning and Zoning Commission and City Council on proposed changes in zoning classification shall be sent to owners of real property lying within 500 feet of the property upon which the change in classification is proposed. Notice to be given not less than 21 days before the date set for hearing to all such owners who appear on the last approved City Tax Roll. Such notice may be served by depositing the notice, properly addressed and



**Comment [11]:** This changed from 10 days to 21 days for consistency with all notifications.

postage paid, in the United States Mail. When property lying within 500 feet of the property proposed to be changed is located in territory which was annexed to the City after the final date for making the renditions which are included on the last approved City Tax Roll, at least 21 days notice of the time and place of the public hearing shall be published in an official newspaper or a paper of general circulation in the City.

**Comment [12]:** This changed from 15 days to 21 days for consistency with all notifications.

**2. Posted Notice. (Signs)**

- a. The City Planner or designee shall direct the erection of at least 1 sign upon each property proposed to be rezoned. Where possible, such sign or signs shall be located in a conspicuous place or places upon such property at a point or points nearest any right-of-way, street, roadway or public thoroughfare adjacent to such property. The City shall be responsible for making, installing and removing such signs, the costs for which shall be included as part of the fees the City assesses to applicants persons for rezoning requests.
- b. Such sign or signs shall be so erected not less than 21 days before the date set for public hearing before the Planning and Zoning Commission. Any such sign or signs shall be removed subsequent to the occurrence of either final action by the City Council or withdrawal of the application for amendment.
- c. Such sign or signs shall substantially indicate that a zoning amendment is proposed and shall further set forth that additional information can be acquired by telephoning the number indicated thereon.
- d. Such erection and/or the continued maintenance of any such sign or signs shall not be deemed a condition precedent to the holding of any public hearing, to the recommendation concerning or adoption of any proposed zoning amendment or to any other official action concerning any such amendment.

**Comment [13]:** This changed from 10 days to 21 days for consistency with all notifications.

- 3. **Published Notice.** Notice of a public hearing before the City Council shall be given by publication one time in the official newspaper or a paper of general circulation in the municipality at least 21 days before the time of the hearing.

**Comment [14]:** This changed from 15 days to 21 days for consistency with all notifications.

**Sec. 125-49.D. Criteria for Considering Text or Map Amendments (Rezoning)**

The Planning and Zoning Commission shall use, but not be limited to, the following criteria as reference in support of their recommendation for approval or denial:

- 1. Conformance of the proposed zoning and use with the City’s Comprehensive Plan and other City policies;
- 2. The character of the surrounding area;
- 3. The zoning and use of nearby properties, and the extent to which the proposed zoning and use would be compatible;

4. The suitability of the property for the uses permitted by right in the proposed zoning district;
5. The extent to which approval of the application would detrimentally affect nearby properties;
6. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the street network or present parking problems in the vicinity of the property;
7. The extent to which approval of the application would harm the value of nearby properties;
8. The gain to public health, safety, and welfare due to denial of the application as compared to the hardship imposed upon the owner as a result of denial of the application; and
9. That there are exceptional circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the same zone or neighborhood.

**Sec. 125-49.E. Planning and Zoning Commission Hearing and Recommendation**

The Planning and Zoning Commission shall hold public hearings on all properly filed proposals. After closing of the public hearing on a proposal, the Planning and Zoning Commission shall transmit to the City Council its recommendation on said proposal.

**Sec. 125-49.F. City Council Hearing and Action**

1. ***Proposal Recommended for Approval.*** Every proposal to amend a zoning boundary which is recommended favorably by the Planning and Zoning Commission and every proposed amendment to the regulations of this Ordinance shall be forwarded to the City Council for setting and holding of a public hearing thereon. No change, however, shall become effective until after the adoption of an ordinance for same and its publication as required by law.
2. ***Proposal Recommended for Denial.*** When the Planning and Zoning Commission determines that a proposal to amend a zoning boundary should be denied, it shall so report to the City Council. After receiving the final report from the Planning and Zoning Commission, the City Council may approve the proposal or deny the proposal, with or without prejudice as to re-filing, and that decision shall be final unless an appeal is filed with the City Secretary's Office within 12 days following City Council action.

**Sec. 125-49.G. Appeal**

1. ***Written Allegation Required.*** An appeal from the decision of the Planning and Zoning Commission may be taken by any person who is aggrieved by the action

of the Planning and Zoning Commission on a specific proposal. The appeal shall be reduced to writing, showing that:

- a. The Planning and Zoning Commission was prejudiced in its deliberation;
- b. New information is available which was not considered by the Planning and Zoning Commission;
- c. The Planning and Zoning Commission committed some error in its deliberation; or
- d. For other reasons, the requested change should be granted.

The Secretary shall forward the appeal to the City Council with the regular report of Planning and Zoning Commission action on the subject proposal.

2. **City Council Action.** Upon receipt of written appeal, the City Council may:

- a. Refer the original proposal and appeal to the Planning and Zoning Commission for a new hearing and a report and recommendation;
- b. Schedule its own hearing on the proposal;
- c. Deny the appeal in its entirety; or
- d. Deny the application without prejudice as to re-filing upon showing that unnecessary hardship will otherwise result and that the intent and spirit of the Ordinance will be observed.

### **Sec. 125-49.H. Limitation On Reapplication**

When a proposal is denied by the City Council or when the applicant has withdrawn the proposal after the giving of public notice, no new applications of like nature shall be accepted by the City or scheduled for a hearing by the Planning and Zoning Commission within a period of 12 months of the date of denial or withdrawal unless the proposal is denied without prejudice; provided, however, on receipt of written request by the original applicant describing substantially changed conditions in the community since prior consideration of his proposal so as to justify an earlier review of this matter, the City Council may waive the mandatory delay period and authorize the acceptance of a new application.

### **Sec. 125-49.I. Joint Hearings**

In conformance with the Local Government Code, the City Council may hold a joint public hearing with the Planning and Zoning Commission on a request for a change in zoning classification. In case of a joint hearing, The City Council must not act on the request until it receives the report from the Planning and Zoning Commission.

