

**CHAPTER 1119
Amendments**

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1119.01 AUTHORITY FOR AMENDMENTS.

The regulations imposed and the districts created under this Planning and Zoning Code may be amended from time to time by ordinance duly enacted by the City Council. No such amendment shall be adopted except in accordance with the procedures specified in Sections 1119.02 to 1119.10, inclusive, of this Planning and Zoning Code. (Ord. 2006-49. Passed 5-21-07.)

1119.02 INITIATION OF ZONING AMENDMENTS.

Amendments to this Planning and Zoning Code shall only be initiated in one of the following ways:

- (a) By the filing of an application by all owners or lessees of property or developers with an option or a signed purchase contract on such property within the area proposed to be changed or affected by said amendment. If the applicant is not the property owner, the property owner shall sign the application.
 - (b) By the adoption of a motion by the Planning Commission.
 - (c) By the adoption of a resolution by the City Council.
- (Ord. 2006-49. Passed 5-21-07.)

1119.03 AMENDMENTS INITIATED BY PROPERTY OWNERS.

An amendment initiated by at least one owner or lessee of property or a developer with an option or a signed purchase contract on such property within the area proposed to be changed or affected by said amendment shall be submitted and reviewed according to the following:

- (a) Discussion with Planning Commission. Prior to submitting an application for an amendment to the Planning and Zoning Code, the applicant may appear before the Planning Commission to informally discuss the proposed amendment. However, no action shall be taken at such a meeting

and no discussions, opinions, suggestions, or recommendations of the Planning Commission shall be relied upon by the applicant to indicate subsequent approval or disapproval of the proposed amendment.

- (b) Submission Requirements. An application for a zoning amendment may be obtained in the Division of Planning and Zoning. The application for amendments to both the Zoning Code text and the Zoning Map shall be in such form and contain such information as shall be prescribed from time to time by the Zoning Administrator. The application shall also include the application fee, as set forth in the schedule of fees. For additional submission requirements, see Chapter 1115.
- (c) Review for Completeness. The Zoning Administrator or designee shall review the submitted application for completeness and compliance with the applicable submission requirements within twenty (20) days of receipt of such application. If the application is deemed insufficient, the Zoning Administrator or designee shall notify the applicant of the deficiencies and place the application on hold until complete. When the application is determined complete and the application fee has been paid, the Zoning Administrator or designee shall officially accept the application for consideration.
- (d) Transmittal to the Planning Commission. After the filing of a completed application by an owner, lessee of property or developer with an option or a signed purchase contract on such property, the Zoning Administrator shall transmit the application to the Planning Commission to begin the adoption process set forth in Sections 1119.04 through 1119.10. (Ord. 2006-49. Passed 5-21-07.)

1119.04 AMENDMENTS INITIATED BY THE PLANNING COMMISSION OR THE CITY COUNCIL.

After the passage of a motion by the Planning Commission or the passage of a resolution by the City Council, the motion or resolution shall be reviewed and considered by the Planning Commission and the City Council according to the process set forth in Sections 1119.05 through 1119.10.

(Ord. 2006-49. Passed 5-21-07.)

1119.05 PUBLIC HEARING AND NOTICE BY PLANNING COMMISSION.

- (a) Upon the receipt of an application or resolution or upon the passage of a motion, the Planning Commission shall set a date for a public hearing for reviewing the proposed amendment.
- (b) Whenever a proposed map amendment proposes to rezone 10 or fewer parcels, written notification shall be given by the Zoning Administrator, by first class mail, to the applicant and to all owners of property located within 200 feet of the property proposed to be rezoned or redistricted. Failure of delivery of such notice shall not invalidate any recommendation of the Planning Commission or any subsequently enacted ordinance.

- (c) Notice shall be given in one or more newspapers of general circulation in the City.
- (d) All notices shall be mailed at least 10 days prior to the date of the public hearing.
- (e) Notices shall include the time and place of the public hearing, a summary of the proposed amendment and a statement that the opportunity to be heard will be afforded to any person interested.
- (f) The Commission may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required.
(Ord. 2006-49. Passed 5-21-07.)

1119.06 AMENDMENTS TO TEXT.

When a proposed amendment would result in a change in the text of this Zoning Code but would not result in a change of zoning classification of any property on the zoning map, the Planning Commission and the City Council shall consider the following items when formulating its decisions:

- (a) Whether such change is consistent with the intent and purposes of this Planning and Zoning Code;
- (b) Which areas are most likely to be directly affected by such change and in what way they will be affected; and,
- (c) Whether the proposed amendment is made necessary because of changed or changing conditions in the areas of zoning districts affected or in the city generally, and, if so, the nature of such changed or changing conditions. (Ord. 2006-49. Passed 5-21-07.)

1119.07 AMENDMENTS TO CHANGE ZONING DISTRICTS OR ZONING CLASSIFICATIONS OF PROPERTIES.

When a proposed amendment would result in a change of zoning classification of any property, the Planning Commission and the City Council should consider whether:

- (a) The change in classification would be consistent with the Comprehensive Plan of the City or other adopted plans and policies.
- (b) The change in classification would be consistent with the intent and purposes of this Planning and Zoning Code.
- (c) The proposed amendment is made necessary because of changed or changing conditions in the area affected, and if so, the nature of such changed or changing conditions.
- (d) The uses that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity. The Planning Commission may suggest conditions and restrictions on the uses that would be permitted on the property if it were reclassified in order to attain compatibility with the uses permitted on other property in the immediate vicinity.
- (e) The uses that would be permitted on the property if it were reclassified would have an adverse environmental or health impact on the immediate

surrounding area in terms of acceptable air, noise, light, or water quality standards.

- (f) Adequate utility, sewer, and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on a property if it were reclassified.
- (g) The amount of vacant land with the same zoning classification as proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances, if any, make a substantial part of such vacant land unavailable for development.
- (h) The proposed amendment would correct an error in the application of this Planning and Zoning Code as applied to the subject property.
(Ord. 2006-49. Passed 5-21-07.)

1119.08 RECOMMENDATION BY THE PLANNING COMMISSION.

- (a) After the conclusion of the public hearing required in Section 1119.05, the Planning Commission shall recommend one of the following to City Council, in writing, along with the minutes of the hearing:
 - (1) That the amendment be granted as requested;
 - (2) That the amendment be granted as modified by the Planning Commission; or,
 - (3) That the amendment be denied. (Ord. 2006-49. Passed 5-21-07.)
- (b) If the Planning Commission does not make a recommendation on the proposed amendment within sixty (60) days after the public hearing, it shall be deemed that the recommendation of the Planning Commission is that the amendment be denied. (Ord. 2012-35. Passed 12-3-12.)
- (c) All recommendations shall also be forwarded to the applicant, as applicable. (Ord. 2006-49. Passed 5-21-07.)

1119.09 PUBLIC HEARING AND NOTICE BY CITY COUNCIL.

Upon receipt of the recommendation from the Planning Commission, Council shall set a time for a public hearing on the proposed amendment.

- (a) Notice of the public hearing shall be given by Council according to the following:
 - (1) Notice of the proposed amendment shall be published at least thirty (30) days prior to the date of the required hearing, in one or more newspapers of general circulation in the City.
 - (2) If the proposed amendment intends to rezone or redistrict ten or less parcels of land, as listed on the tax duplicates, written notice of the hearing shall be mailed by the Clerk of Council by first class mail at least twenty calendar days before the day of the public hearing to all owners of property within, contiguous to and directly across the street from such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list or the County Treasurer's mailing list. The failure to deliver the notification, as provided in this section shall not invalidate any such amendment.

- (3) Notices shall include the time and place of the public hearing, a summary of the proposed amendment and a statement that the opportunity to be heard will be afforded to any person interested.
- (b) Council may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required.
- (c) During the thirty (30) days prior to the public hearing, the text of the proposed amendment, maps or plans, if applicable, and the recommendation of the Planning Commission shall be on file for public examination in the office of the Clerk of Council or in such other office as is designated by Council.
(Ord. 2006-49. Passed 5-21-07.)

1119.10 ACTION BY CITY COUNCIL.

After the conclusion of the public hearing required in Section 1119.09, Council shall take action on the proposed amendment.

- (a) Council's action shall either:
 - (1) Adopt the recommendation of the Planning Commission;
 - (2) Deny the recommendation of the Planning Commission; or
 - (3) Adopt some modification thereof.
- (b) Required Vote for Adoption.
 - (1) When the Planning Commission recommends approval of a proposed amendment, then no such amendment shall be adopted unless approved by a majority vote of the membership of Council.
 - (2) When the Planning Commission recommends disapproval of a proposed amendment then no such amendment shall be adopted unless approved by a majority vote of the membership of Council.
- (c) Any such proposal may be amended prior to the voting thereon by Council without further notice or postponement if such amendment to the proposal is germane to the subject matter thereof and is in accordance with the recommendation of the Planning Commission.
(Ord. 2006-49. Passed 5-21-07.)
- (d) If a proposed amendment is not adopted by City Council within 120 days after receiving the recommendation of the Planning Commission, such proposed amendment shall be deemed to have been defeated and denied and shall not thereafter be passed with out additional proceedings as provided in Sections 1119.02 through 1119.10.
(Ord. 2012-24. Passed 8-20-12; Ord. 2012-35. Passed 12-3-12.)