

CHAPTER 42 AMENDMENTS AND REZONING

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42.1.0 PURPOSE. The purpose of this chapter is to establish procedures to amend either the zoning text, zoning map, comprehensive plan text, or comprehensive plan maps (i.e. Urban Growth Area (UGA) Boundaries and land use maps) of this ordinance.

42.2.0 INITIATION OF AMENDMENTS.

- (1) Zoning Map and Comprehensive Plan Maps:
 - (a) Any person, firm, corporation, group of individuals, or municipal corporation may petition for a zone change or a change in the comprehensive plan maps with the following exceptions:
 - (i) If the person, firm, corporation or group of individuals does not have legal ownership of the parcel of land under consideration for rezoning or change in the comprehensive plan designation, the petition shall not be accepted. All petitions submitted must contain the signature of the legal owner of the property. The legal owner is considered to be the owner of record. Specific application forms for both zoning and comprehensive plan map amendments can be obtained from the Planning Department.
 - (ii) A person, firm, corporation or group of individuals may not submit, in any one year, more than one petition requesting a zone change or change in the comprehensive plan maps from the property's present zone or comprehensive plan map designation to another particular zone or comprehensive plan map designation for the same parcel of land, provided, within the one year period, a person, firm, corporation or group of individuals may submit another petition requesting a zone change or change in the comprehensive plan maps from the property's present zone or comprehensive plan map designation to a zone or comprehensive plan map designation other than the zone or comprehensive plan map designation previously requested in the earlier petition.
- (2) Text:
 - (a) The Board of Commissioners upon its own motion may conduct an open record hearing to amend the text, or request that the Planning

- Commission conduct a public hearing to develop a recommendation on a text amendment.
- (b) The Planning Commission may initiate an open record hearing to develop a recommendation for a text amendment.
 - (c) Any resident or property owner may petition the Board for a text amendment.
- (3) City and County Coordination:
- (a) All County zoning and comprehensive plan map amendments within a UGA shall be coordinated with the affected City prior to change by the County. Coordination shall consist of providing the effected jurisdictions with timely notification of proposed map amendments and affording an opportunity to comment. Map amendments shall conform in all respects to the UGA comprehensive plan.
 - (b) Zoning and comprehensive plan text amendments shall be coordinated between the County and cities to insure the intent and purpose of the joint development regulations are maintained. Coordination shall consist of providing affected jurisdictions the opportunity to participate in drafting the text amendment through comment and consultation.

42.3.0 REQUIREMENTS FOR ZONING AND COMPREHENSIVE PLAN PETITIONS.

The petitions for a change of classification must show the following and must be provided on application forms provided by the Planning Department specific to zoning amendment (text and map) petitions and specific to comprehensive plan amendment (text and maps) petitions:

- (1) The date the existing zone or comprehensive plan designation became effective.
- (2) The changed conditions which are alleged to warrant other or additional zoning or comprehensive plan designations.
- (3) Facts to justify the change on the basis of advancing the public health, safety and general welfare.
- (4) The effect it will have on the value and character of the adjacent property and the comprehensive plan.
- (5) The effect on the property owner or owners if the request is not granted.
- (6) The current comprehensive plan land use designation for the property.
- (7) Such other information as the Planning Commission requires.

42.4.0 NOTICE REQUIREMENTS. At least ten day's notice of time, place and general purpose of any open record hearing required by this chapter shall be published in a newspaper of general circulation in the County. In addition thereto, written notice of the hearing shall be mailed to each property owner of record, within five hundred feet in the U.G.A.'s and one mile outside of a U.G.A. of the boundaries of the area proposed to be changed or altered. Owners of record shall be determined by a title report (obtained from the County Assessor's Office or licensed title company) not more than thirty calendar days preceding the date of publication. Substantial compliance shall be deemed to be full and sufficient compliance.

42.5.0 AMENDMENT IN CONFLICT WITH COMPREHENSIVE PLAN. In the event any proposed amendment, supplement, change to or repeal of this ordinance is in conflict with the comprehensive plan, said amendment or change shall not be entertained until and if the comprehensive plan is amended.

42.6.0 PLANNING COMMISSION - FINDINGS AND RECOMMENDATIONS.

- (1) After completion of an open record hearing on a petition for reclassification of property, the Planning Commission shall make and enter findings from the records and conclusions thereof which support its recommendation and find whether or not:
 - (a) The proposal is in accord with the goals and policies of the comprehensive plan.
 - (b) The effect of the proposal on the immediate vicinity will be materially detrimental.
 - (c) There is merit and value in the proposal for the community as a whole;
 - (d) Conditions should be imposed in order to mitigate any significant adverse impacts from the proposal.
 - (e) A concomitant agreement should be entered into between the county and the petitioner, and if so, the terms and conditions of such an agreement.
- (2) The Planning Commission shall render its recommendation to approve, approve with modifications and/or conditions, or reject the petition based on its findings and conclusions. The commission's recommendation, to include its findings and conclusions, shall be forwarded to the Board of Commissioners at a regular business meeting thereof.

42.7.0 APPEAL OF RECOMMENDATION. Any recommendation of the Planning Commission regarding a petition for reclassification of property or amendment may be appealed in accordance with one of the following methods:

- (1) Applicant: Within ten (10) calendar days from the date of the Planning Commission recommendation, the applicant files written appeal with the Planning and Building Director stating the basis of appeal from said recommendation.
- (2) Other person: Within ten (10) calendar days from the date of the Planning Commission recommendation, file written appeal with the Planning and Building Director stating the basis of appeal from the Planning Commission recommendation.
- (3) Either method of appeal shall include payment of an appeal fee in the amount of one hundred dollars.
- (4) A proper and timely filed appeal shall cause the Board of Commissioners to schedule a closed record appeal hearing, notice of which has to be given in accordance with Chapter 42.4.0 Amendments and Rezones to consider the appeal of the Planning Commission's recommendation. A closed record appeal hearing will occur with no new testimony or information allowed to be presented to the Board of Commissioners. Only appeal argument, based on the Planning Commission's meeting record, will be allowed. The Board of Commissioners may ask questions of persons in attendance based upon the Planning Commissions record.

42.8.0 BOARD OF COMMISSIONERS CONSIDERATION.

- (1) Unless a proper and timely appeal is filed or the Board by majority vote deems further review is necessary, the recommendation of the Planning Commission shall be effected by proper action of the Board without further review. In the event the Board deems further review is necessary, it shall conduct a closed record hearing, notice of which shall be given in accordance with this chapter.

- (2) In those cases which require further review, the Board shall at the conclusion of a closed record hearing make and enter findings of fact and take one of the following actions:
 - (a) Approve the reclassification with or without modification.
 - (b) Enter into a concomitant agreement with the petitioner.
 - (c) Deny the reclassification.

42.9.0 CHANGE IN ZONING AND COMPREHENSIVE PLAN MAP - EFFECTUATION.

Upon granting the application for zone change or comprehensive plan map change with or without modification and/or conditions, the Board shall change by ordinance the district boundaries, zone classifications or comprehensive plan map designations as shown on the district and comprehensive land use maps and amend, supplement or change by ordinance the regulations established by this ordinance.

42.10.0 CONCOMITANT AGREEMENT.

- (1) The County may enter into an agreement with the petitioner whereby the County will grant the requested zone change conditioned upon the petitioner entering into a covenant with the County restricting the use and/or development of the subject property. Provisions of the agreement may relate to any or all of the following aspects of the use of petitioner's property:
 - (a) Setback.
 - (b) Use of building or property.
 - (c) Type of business.
 - (d) Height of building.
 - (e) Size of building.
 - (f) Size of subdivision of property.
 - (g) Density.
 - (h) Landscape.
 - (i) Street, sidewalk and curb improvement and easements and rights-of-way for such.
 - (j) Public utility improvements and easements and rights-of-way for such.
 - (k) Time frame for commencement or completion of the proposed construction or development. In the event a concomitant agreement includes a specified time frame for the proposed development, it may further provide that failure to conform to the specified time frame shall cause the zone change granted therein to revert to the zone existing immediately prior to said zone change.
- (2) Any concomitant agreement under this chapter must be signed by the legal owner of record for the property described in the agreement, notarized and attached to and becoming a part of the ordinance effectuating the zone change.
- (3) The ordinance effectuating the zone change, together with the concomitant agreement and all other attachments thereto, shall be filed with the county auditor and all conditions and covenants included in the concomitant agreement shall be binding on all heirs, successors and assigns, and shall run with the land.

42.11.0 TERMINATION OF CONCOMITANT AGREEMENT. A person, firm, corporation or group of individuals seeking termination of the concomitant agreement must petition for termination of the concomitant agreement in the same manner and following the same steps and procedures as a person applying for a zone change under the provisions of this chapter.