

ARTICLE XV. AMENDMENTS

SECTION

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Sec. 150.1501 Authorization.

The regulations imposed and the zoning districts created by this Chapter may be amended from time to time by ordinance adopted by the City Council, pursuant to the procedures set forth in this Article.

Sec. 150.1502 Initiation of Amendments.

Amendments to this Chapter may be proposed by the City Council, the City Manager, the Plan Commission, or any person having an ownership interest in any property proposed to be rezoned located in the City. In the event an amendment is initiated by the City Council, City Manager, or Plan Commission, the provisions of Section 150.1503(C) and the notice by mail required under 150.1504(B) shall not apply.

Sec. 150.1503 Application for Amendment.

(A) The petitioner shall file an application for an amendment with the Zoning Administrator on forms provided by the Zoning Administrator, who shall forward a copy without delay to the City Clerk for processing of payment, and preparation and publication of legal notice.

(B) The application for an amendment shall contain the following information, as well as such additional information as may be prescribed by rule of the Plan Commission:

(1) In the event such requested amendment will constitute a change in the text of this Chapter, or any part thereof, such application shall contain the following:

- (a) The particular Article, Section, or part thereof, to be amended;
- (b) A brief statement of the amendatory language sought; or

(2) In the event such requested amendment will constitute a map amendment rezoning certain land and territory, the application shall contain the following:

- (a) The present zoning of the subject property;
- (b) A brief statement of the amendment that is sought;
- (c) The legal description of the subject property;

(d) The commonly known location (address) of the subject property; and

(e) The name and address of the petitioner and the attorney of the petitioner, if any:

(i) In the event the petitioner has any ownership interest in the subject property, a description of that interest;

(ii) In the event the petitioner is a trustee or beneficiary of any land trust, the application shall identify each beneficiary of such land trust by name and address and define and identify such beneficiary's interest therein.

(C) At the time of filing, any applicant having an ownership or leasehold interest in the subject property shall provide the Zoning Administrator with:

(1) Proof of ownership, or current contract to purchase or lease the subject property, and proof of authority to act on behalf of the owner, since only persons owning or having interest in the subject property may file an application to amend the zoning classification of such land;

(a) Each application shall be signed by the owner of record of the subject property; and

(b) If the application is made by the trustee or beneficiary of a land trust, the application shall identify each beneficiary of such land trust by name and address and identify such beneficiary's interest therein.

(2) A current survey; and

(3) Payment of an application fee equal to the amount established from time to time by resolution adopted by the City Council and maintained in the office of the Zoning Administrator.

Sec. 150.1504 Processing, Notice, and Hearing.

(A) Upon receipt by the Zoning Administrator of a complete application for an amendment, the Zoning Administrator shall assign a case and/or docket number to the application, shall schedule the matter for hearing before the Plan Commission, and shall maintain a file for such application, which file shall be open to the public for inspection during regular business hours. All documents pertinent to the case (including but not limited to the application, legal notice, evidence, and transcript of proceedings, if any) shall be placed in the file.

(B) Not more than thirty (30) days nor less than fifteen (15) days before the hearing date at which the application for an amendment is to be considered, the City Clerk shall cause notice thereof to be published in one or more newspapers published in the City, or, if no newspaper is published within the City, then in one or more newspapers with a general circulation within the City. In addition to such published notice, not more than thirty (30) days nor less than fifteen (15) days before the hearing the applicant, his agent,

or his attorney, must notify either in person or by certified mail (return receipt requested), the owners of all property within two hundred fifty (250) feet (exclusive of public right-of-way) of the subject property. Proof of such notification must be presented at the hearing. The notices required in this Section shall contain:

- (1) The legal description of the subject property;
- (2) The address of the subject property;
- (3) A brief statement of the nature of the requested amendment;
- (4) The name(s) and address(es) of the legal and/or beneficial owner(s) of the subject property;
- (5) The name(s) and address(es) of the petitioner(s);
- (6) The name of the legal representative of the petitioner, if any; and
- (7) A statement of the date, time, and place of the hearing for which the notice is being given.

(C) Prior to the hearing, the Zoning Administrator shall also cause one or more signs to be posted on the subject property.

(1) The number and location of signs shall be determined by the Zoning Administrator.

(2) Each sign must be a minimum of 24" x 24" in size, have letters a minimum of 3/8" wide stroke by 2-1/2" high, and contain the following information:

(a) The fact that a public hearing will be held regarding the subject property, with direction to interested members of the general public to call the office of the Zoning Administrator for further information concerning date, time, and place and subject matter of the public hearing; and

(b) The telephone number of the Zoning Administrator.

(D) Within ten (10) days after the commencement of the public hearing regarding the proposed amendment, the City shall cause the removal of the sign or signs from the subject property and return same to the office of the Zoning Administrator.

(E) Any interested party may appear in person, by agent, or by attorney, and be heard at the hearing held pursuant to any such application for amendment.

Sec. 150.1505 Standards.

(A) In making its recommendations to grant or its recommendations to deny any specific application for an amendment rezoning any given parcel of land, the Plan Commission shall consider:

- (1) The existing uses and zoning of nearby properties;
- (2) The extent to which property values are diminished by the existing zoning;
- (3) The extent to which the existing zoning and/or proposed zoning promotes the general health, safety, and welfare of the citizenry of the City;
- (4) The relative gain to the public as compared to the hardship imposed upon the petitioner;
- (5) The suitability of the subject property for the purposes for which it is presently zoned;
- (6) The length of time that the subject property has been vacant, as presently zoned, considered in the context of the land development in the area in which the property is located;
- (7) The compatibility of existing zoning as compared to the compatibility of the proposed zoning with the existing Master Plan; and
- (8) The evidence or lack of evidence of community need for the use proposed by the petitioner which would require the zoning amendment.

(B) No amendment to this Chapter shall be recommended by the Plan Commission for approval by the City Council unless the Commission shall make findings of fact based upon the evidence presented to it in each specific case with respect to the following matters:

- (1) Zoning Code. The consistency of the proposed amendment with the intent and general regulations of this Chapter;
- (2) Master Plan. The consistency of the proposed amendment with the intent and actual text and drawings of the Master Plan;
- (3) Type of Change. Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, or reflects a change in policy;
- (4) Implementation. Whether the proposed amendment provides a more workable way to achieve the intent and purposes of this Chapter and the Master Plan; and
- (5) Persons Benefited. That the proposed amendment will benefit the residents of the whole City, not just the petitioner, property owner(s), neighbors of any property under consideration, or other special interest groups.
- (6) Development Trend. The trend of development, if any, for the general area of the subject property, including changes, if any, which have taken place in its present zoning classification.

(7) Zoning. The zoning classification of property within the general area of the subject property.

(8) Public Facilities. Whether adequate public facilities including, but not limited to, schools, parks, police and fire protection, roads, sanitary sewers, storm sewers, and water lines exist or are reasonably capable of being provided prior to the development of the uses which would be permitted on the subject property if the amendment were adopted.

Sec. 150.1506 Plan Commission Recommendation.

Within forty-five (45) days following the last session of the public hearing on a proposed amendment, the Plan Commission shall prepare findings of fact and recommendations with respect to the proposed amendment and transmit same to the City Council, as well as to the City Clerk and the Zoning Administrator.

(A) The Plan Commission may recommend the adoption of an amendment changing the zoning classification of any property in question to a higher classification than that requested by the applicant.

(B) The failure of the Plan Commission to provide a recommendation within such 45 day period, or such further time to which the applicant may, in writing, agree, shall be deemed a recommendation against the approval of the proposed amendment. (Ord. 18-04, J. 30, p. 49-54, passed 3/8/04).

Sec. 150.1507 Action by City Council.

(A) An application for a proposed amendment shall be acted upon by the City Council following the date upon which the findings and recommendations of the Plan Commission are made.

(1) In case of a written protest against any proposed amendment, signed and acknowledged by the owners of twenty (20) percent of the frontage proposed to be altered, or by the owners of twenty (20) percent of the frontage immediately adjacent or across an alley therefrom, or by the owners of twenty (20) percent of the frontage directly opposite the frontage proposed to be altered, is filed with the City Clerk, the proposed amendment shall not be passed except by a favorable vote of two-thirds (2/3) of all the members of the City Council then holding office.

(2) If the City Council authorizes an amendment, such amendment shall not be effective until the effective date of the adoption of a suitable ordinance amending this Chapter.

(B) No application for an amendment which has been denied by the City Council shall be resubmitted for a period of one (1) year from the date of such denial, except on grounds of new evidence or proof of changed conditions found to be valid by the Plan Commission.

(C) As a condition precedent to the rezoning of any premises, whether or not the Plan Commission so recommends, pursuant to its authority as a home rule unit under the Illinois Constitution of 1970, the City Council may require an applicant to execute a

restrictive covenant dealing with such matters as traffic flow, subdivision or resubdivision, density, maximum height, yards, open space, or other similar matters whenever in the sole discretion of the City Council the public health, safety, comfort, morals, or welfare will be thereby advanced or protected.