

Sec. 146-164. - Changes and amendments.

Under the provisions of V.T.C.A., Local Government Code ch. 211, the city council may from time to time amend, supplement or change by ordinance the boundaries of the districts or the regulations herein established.

- (1) *Submission to planning and zoning commission.* Before taking any action on any proposed amendment, supplement, or change in the ordinance, the city council shall submit the proposed revision to the planning and zoning commission for its review, recommendation, and report.
- (2) *Public hearing and notice.* Prior to making its report to the city council, the planning and zoning commission shall hold at least one public hearing thereon.
 - a. Written notice of all public hearings on proposed changes shall be sent to all owners of property, or to the person rendering the same for city taxes, located within 200 feet of any property affected thereby, within not less than ten days before such hearing is held. Such notice may be served by using the last known address as reflected by the Collin Central Appraisal District, and depositing the notice, properly addressed and postage paid, in the United States mail.
 - b. Prior to adopting any proposed amendment, supplement, or change to the schedule of uses, a public hearing shall be held at a planning and zoning commission meeting, followed by a public hearing held at a joint planning and zoning commission and city council meeting at which action is taken by both bodies. Notice of each public hearing shall be given by publication one time in a newspaper of general circulation in the city, stating the time and place of such hearing, which time shall not be earlier than 15 days from the first date of publication.
 - c. *Requirement to post zoning change signs.* All zoning changes or amendments, including zoning, rezoning, amendments to planned developments, meritorious exceptions to the architectural standards as provided for in section 146-139, specific use permits, and the like, although specifically exempting site plan approval for site plans within a PD unless part of an SUP approval that requires a site plan, shall be required to have an official sign posted prior to planning and zoning commission consideration and the sign maintained throughout the zoning change process.
 1. The director of planning shall have the authority to determine if the notice posting on the subject property met the intent of the requirements contained herein.

2. Process. The following requirements shall apply to the posting of a zoning change sign:

- (a) The applicant shall be responsible for posting the required number of notification signs on the subject property at least seven days prior to the planning and zoning commission consideration of the application and for maintaining the required signs throughout the zoning change process.
- (b) The applicant shall furnish an affidavit to the planning department no earlier than on the Monday at 8:00 a.m., one week prior to the Tuesday planning and zoning commission meeting, and no later than by 12:00 p.m. (noon) on the Wednesday prior to the Tuesday planning and zoning commission meeting at which the public hearing is scheduled, certifying that the required sign was posted on the subject property on or before the seventh day prior to the said commission meeting.
- (c) Failure to post the sign at least seven (7) days prior to the planning and zoning commission public hearing shall result in the postponement of the zoning change consideration by the commission. The applicant shall be subject to an additional fee to republish and/or re-notify due to such postponement.
- (d) The applicant shall furnish an affidavit to the planning department no earlier than on the Monday at 8:00 a.m., one week prior to the Tuesday city council meeting, and no later than by 12:00 p.m. (noon) on the Wednesday prior to the Tuesday city council meeting at which the public hearing is scheduled, certifying that the required sign was maintained on the subject property in a manner consistent with the requirements contained herein prior to the city council holding a public hearing to consider the application.
- (e) For special meetings, the director of planning shall set a sign posting schedule which meets the intent and purpose contained herein.

3. Maintenance of zoning change signs.

- (a) The applicant shall be responsible for maintaining the sign on the subject property throughout the zoning change process. The city is not responsible for monitoring the required zoning change signs.
 - (b) Should the city discover through routine duties related to other aspects of their daily functions that the sign is not being maintained, the city shall contact the applicant to investigate and, if needed, correct the situation. An affidavit from the applicant certifying that the applicant has corrected the posting shall indicate that the intent of the posting requirement was met.
 - (c) Failure to maintain the sign during the process shall not result in the postponement of the zoning change consideration so long as the applicant attempted to replace damaged or missing signs upon notification.
 - (d) The applicant shall be responsible for removing the sign from the subject property within two weeks of the final action by the city.
4. Sign specifications: All required zoning change signs shall be official city signs.
- (a) Zoning change signs shall be obtained from the planning department or through its designated contractor.
 - (b) Costs of procuring, installing or replacing signs shall be at the applicant's expense.
 - (c) All required signs shall be approximately four feet by four feet in size, as approved by the director of planning.
 - (d) All required signs shall state the requested action, a telephone number at the city where additional information may be requested, and other information deemed relevant, as may be needed and as approved by the director of planning.
5. Sign locations.
- (a) All required signs shall be posted in unobstructed view on private property and in a manner in which they can be clearly read from the public right-of-way.

- (b) On tracts of land with frontage on public right-of-way greater than 250 feet, additional signs shall be posted so that each sign is no greater than approximately 200 feet apart.
 - (c) On corner lots, a single sign may be posted at the intersection of the two streets if the frontage on either street does not exceed 250 feet.
 - d. Notice of hearings on proposed changes in zoning regulations affecting the city in general shall be accomplished by one publication one time in a newspaper of general circulation in the city stating the time and place of such hearing, which time shall not be earlier than 15 days from the first date of publication.
- (3) *Commission report.* The commission, after the public hearing is closed, shall make a recommendation based on its evaluation of the request and of the relationship of the request to the adopted city plan, and staff shall prepare a written report of the commission's recommendation to the city council. The commission may defer its report for not more than 90 days until it has had opportunity to consider other proposed changes which may have a direct bearing thereon. In making its determination, the commission shall consider the following factors:
 - a. Whether the uses permitted by the proposed change would be appropriate in the area concerned;
 - b. Whether adequate public school facilities and other public services exist or can be provided to serve the needs of additional residences likely to be constructed as a result of such change, and the consequences of such change;
 - c. Whether the proposed change is in accord with any existing or proposed plans for providing public water supply and sanitary sewers to the area;
 - d. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances, which may make a substantial part of such vacant land unavailable for development;
 - e. The recent rate at which land is being developed in the proposed zoning district, particularly in the vicinity of the proposed change; and

- f. How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved, and whether such designation for other areas should be modified also.
- (4) *Council hearing.* A public hearing shall be held by the city council before adopting any proposed amendment, supplement, or change to the ordinance. Notice of such hearing shall be given by publication one time in a newspaper of general circulation in the city, stating the time and place of such hearing, which time shall not be earlier than 15 days from the first date of publication.
- (5) *Negative recommendations; written protest procedures.*
- a. *Favorable vote required.* An amendment, supplement, or change shall not become effective except by favorable vote of three-fourths of all members of the council:
 - 1. If the commission recommends denial of the proposed change;
or
 - 2. If a written, signed protest is filed by owners of at least 20 percent of either:
 - (i) The area of the lots or land covered by the proposed change; or
 - (ii) The area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.
 - b. *Written protest procedures.* The form of the protest shall be as follows:
 - 1. A protest must be in writing and, at a minimum, contain the following information:
 - (i) A description of the zoning case at issue;
 - (ii) The names of all persons protesting the proposed change in zoning district classification or boundary;
 - (iii) A description of the area of lots or land owned by the protesting parties that is either covered by the proposed change or located within 200 feet of the area covered by the proposed change;

(iv) The mailing addresses of all persons signing the protest;
and

(v) The date and time of its execution.

2. The protest must bear the original signatures of all persons required to sign under subsection (5)c of this section and acknowledged under subsection (5)d of this section.

c. *Required signatures.*

1. A protest must be signed by the owner of the property in question, or by a person authorized by power of attorney to sign the protest on behalf of the owner. In the case of non-community property owned by two or more persons, the signature by any one owner of the property, or by a person authorized by power of attorney to sign the protest on behalf of any one owner, binds the entire property to the protest. In the case of community property, the written protest of one spouse will bind the property in its entirety.
2. In the case of property owned by a corporation, the protest must be signed by the president, a vice-president, or by an attorney-in-fact authorized to sign the protest on behalf of the corporation. In the case of property owned by a general or limited partnership, the protest must be signed by a general partner or by an attorney-in-fact authorized to sign the protest on behalf of the partnership.
3. Lots or land subject to a condominium regime are presumed to be commonly owned in undivided interests by the owners of all condominium units and under the control of the governing body of the condominium. For such lots or land to be included in calculating the lots or land area protesting a proposed rezoning, the written protest must state that the governing body of the condominium has authorized a protest in accordance with procedures required by its bylaws, and that the person signing the protest is authorized to act on behalf of the governing body of the condominium. A written protest signed by the owner of an individual condominium unit shall not be accepted unless the filing party produces legal documents governing the condominium which clearly establish the right of an individual owner to act with respect to his respective undivided interest in the common elements of the condominium. When signatures must be acknowledged by a notary public.

4. Except as otherwise provided in subsections (5)c.2 and 3 of this section, all signatures on a written protest, whether by petition or letter, must be acknowledged before a notary public as provided herein. The notary requirement is fulfilled if the person who obtains the signatures signs a certification (known as a jurat) stating:
 - (i) That he witnessed those signatures; and
 - (ii) That the signatory represented his authority to sign the petition.
5. The city shall be required to forward to the owners entitled to notice hereunder, in addition to the required notice, a reply form for the lodging of protests. A signature on an original reply form sent by the city to the mailing address of the property owner need not be acknowledged before a notary public.
6. A signature on a protest delivered in person by the person signing need not be acknowledged before a notary public if its reliability is otherwise established to the satisfaction of the city secretary. In such a case, a summary of the evidence of reliability considered by the city secretary must be endorsed on the protest by the city secretary.

d. *Filing deadline.*

1. A written protest must be filed with the city secretary before 5:00 p.m. Of the fourth working day immediately preceding the date advertised for the city council public hearing in the statutory notice published in the official newspaper of the city. For example, a written protest must be received by 5:00 p.m., on the Wednesday prior to a regularly scheduled Tuesday council meeting. A protest sent through the mail must be received by the city secretary before the deadline.
2. Before the public hearing on the case, the filing deadline is automatically extended whenever the public hearing is re-advertised in the official newspaper of the city pursuant to statutory notice requirements.
3. After the public hearing has begun, the filing deadline may only be extended by calling a subsequent public hearing and advertising that public hearing in the official newspaper of the city pursuant to statutory notice requirements or if the item is

tabled or continued. In such a case, the new filing deadline is noon of the second working day immediately preceding the newly advertised public hearing date or the date to which the item is tabled or continued.

- e. *Withdrawal of protests once filed.* A protest, once filed, remains in effect unless withdrawn in accordance herewith, irrespective of any amendments made to the zoning proposal. Withdrawals of protests filed must be in writing and filed with the city secretary before the filing deadline. The provisions of this subsection governing the form and filing of protests apply equally to withdrawals.
- f. *Presumptions of validity.*
 - 1. In all cases where a protest has been properly signed pursuant to this subsection, the city shall presume that the signatures appearing on the protest are authentic and that the persons or officers whose signatures appear on the protest are either owners of the property or authorized to sign on behalf of one or more owners as represented.
 - 2. The city attorney may advise the city council that the presumption in subsection (5)f.1 of this section should not be followed in a specific case based on evidence presented.
- g. *Conflicting instruments.* In the event that multiple protests and withdrawals are filed on behalf of the same owner, the instrument with the latest date and time of execution controls.

(6) *Limitation on resubmission of petition.* No rezoning, amendment, supplement, change, or repeal of any section of this chapter, which has been legally rejected by the city council shall be again considered either by the planning and zoning commission or the city council before the expiration of one year from the date of the original action. If a denied rezoning, amendment, supplement, change or repeal of any section of this chapter is substantially changed from its original form, it may be reconsidered immediately. The director of planning shall determine if a rezoning, amendment, supplement, change or repeal of any section of this chapter is substantially changed on a case by case basis. If the director of planning determines that a request is not substantially different, the requestor may appeal the director of planning's determination to the city council.