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## Sec. 30-62. Amendment procedures.

- (a) *Submission of applications.* This LDC or the official zoning atlas may, from time to time, be amended, supplemented, changed or repealed. Applications may be proposed by:
- (1) The city council;
  - (2) The planning board;
  - (3) The city manager without first having approval of the city council; or
  - (4) Any person other than those identified above; provided, however, that no person shall propose an amendment for the rezoning of real property (except as agent or attorney for an owner) that he does not own. The name of the owner shall appear in each application.
- (b) *Review by the department.*
- (1) An application shall be reviewed by the director for completeness. Upon a determination by the director that the application is complete and that all required application fees have been paid, the department will review the application and assure that notice is given as required by the LDC and applicable state law for any required public hearings. In the case of petitions submitted by an applicant described in subsection (a)(4), no application shall be deemed to be complete for review by the city until the application fee has been paid by the applicant. Application fees maybe set from time to time by resolution of the city council.
  - (2) The director will prepare a report to the city council and the planning board. The report shall analyze the effects of the application, analyze whether the application is consistent with the comprehensive plan, and analyze the effect of the various applicable review standards in this LDC upon the development permit application.
  - (3) Application annulment. If an applicant fails to act upon a submitted application within a 90-day period after receiving written comments from the department, the application will be deemed withdrawn by the applicant. The director may extend the 90-day requirement if reasonable progress is being made in revising the application. For good cause shown or excusable delay, if a request is made in writing during the 90-day period, the director may extend the 90-day period until a reasonable time that the circumstances dictate.
  - (4) Neighborhood information meeting (NIM). All rezoning applications require a NIM at applicants' expense which will usually be held at least 30 days prior to the first public hearing on application. The applicant is to provide to the director within not more than 15 days after the holding of the NIM an audio recording and a summary transcript of the NIM to the city as part of the application.
- (c) *Consideration by the planning board.*
- (1) All proposals for LDC amendments or rezonings shall be considered by the planning board. All proposals for LDC amendments or rezonings shall be submitted in writing to the department accompanied by all pertinent information required by this LDC which may be required by the planning board for proper consideration.
  - (2) Notice requirements.
    - a. Notice of the planning board public hearing with regard to an LDC amendment shall be given pursuant to sub-section (f)(3)a. of this LDC.
    - b. Notice of the planning board public hearing with regard to a rezoning shall be given pursuant to sub-sections (f)(1), (2), and (3)a. of this LDC.

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- c. Neighborhood information meeting (NIM). Advertisement for the NIM shall be noticed in a newspaper of general circulation at least 15 days prior to the NIM as provided in section 30-62(f)(3)a. Courtesy notices are also required. The mailed notice shall be sent 15 days prior to the NIM mailed to all real property owners of real property any part of which is located within 300 feet of the real property subject to a development permit application in the manner set forth in section 30-62(f)(2).
  - d. A copy of any notice required by this paragraph (2) shall be kept available for public inspection during regular business hours of the office of clerk to city council once said notice is filed with the clerk.
- (3) *Planning board hearing and report to city council.*
- a. *Staff report.* The staff report on the application for rezoning shall be presented prior to the public hearing on the application. The applicant shall be afforded the opportunity, prior to the close of the public hearing, to respond to any contentions presented by any testimony or other evidence presented during the public hearing, and to respond to the staff report, after receipt of which the hearing shall be concluded, unless the hearing is continued or the matter referred back to staff for further consideration of such matters as the planning board may direct.
  - b. *Rezoning; nature of requirements of planning board report.* When pertaining to the rezoning of land, the report and recommendations of the planning board to city council required below shall show that the planning board has studied and considered the proposed change in relation to the following, when applicable:
    - 1. Whether the proposed change will be consistent with the goals, objectives, and policies, future land use map, and the elements of the comprehensive plan.
    - 2. The existing land use pattern.
    - 3. The possible creation of an isolated district unrelated to adjacent and nearby districts.
    - 4. Whether existing district boundaries are illogically drawn in relation to existing conditions on the real property proposed for change.
    - 5. Whether changed or changing conditions make the passage of the proposed amendment appropriate.
    - 6. Whether the proposed change will adversely influence living conditions in the neighborhood.
    - 7. Whether the proposed change will create or excessively increase traffic congestion or create types of traffic deemed incompatible with surrounding land uses, because of peak hour volumes or projected types of vehicular traffic, including activity during construction phases of the development, or otherwise affect public safety.
    - 8. Whether the proposed change will create a drainage problem.
    - 9. Whether the proposed change will seriously reduce light and air to adjacent areas.
    - 10. Whether the proposed change will adversely affect property values in the adjacent area.
    - 11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.
    - 12. Whether the proposed change will constitute a grant of a special privilege to an individual real property owner as contrasted with the public welfare.

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13. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.
  14. Whether the change suggested is out of scale with the needs of the neighborhood or the city.
  15. Whether it is impossible to find other adequate sites in the city for the proposed use in districts already permitting such use.
  16. The physical characteristics of the property and the degree of site alteration which would be required to make the property usable for any of the range of potential uses under the proposed zoning classification.
  17. The impact of development on the availability of adequate public facilities and services consistent with the levels of service adopted in the city comprehensive plan and as defined and implemented through the city's adequate public facilities ordinance, as amended.
  18. Such other factors, standards, or criteria that the city council shall deem important in the protection of the public health, safety, aesthetics, and welfare.
- c. *Rezoning; restrictions, stipulations and safeguards.* The planning board may recommend that a petition to rezone real property may be approved subject to conditions of approval, including, but not limited to restricting the use of the real property to certain uses provided for in the requested zoning district. Restrictions, stipulations and safeguards attached to a rezoning may include, but are not limited to those necessary to protect adjacent or nearby landowners from any deleterious effects from the full impact of any permitted uses.
  - d. *Amendment to the LDC; nature of requirements of planning board report.* When pertaining to an amendment to the text of the LDC and other than a proposed rezoning, the planning board shall consider, study, and make findings with regard to:
    1. The need and justification for the change;
    2. The relationship of the proposed LDC amendment to the purposes and goals, objectives, and policies, of the city's comprehensive, with appropriate consideration as to whether the proposed change will further the purposes of the LDC and other city codes, regulations, and actions designed to implement the growth management plan.
  - e. *Status of planning board report and recommendations.* The report and recommendations of the planning board required by this section shall be advisory only and not be binding upon the city council.
- (d) *City council action on planning board report.*
- (1) Upon receipt of the planning board's report and recommendations with regard to either a rezoning or an amendment to the LDC, the city council shall hold public hearings as required herein. The reports and recommendations of the staff and the planning board on the application shall be presented at the beginning of the public hearing on the application. The applicant shall have the right, prior to the close of the public hearing, to respond to any contentions presented: by any testimony or other evidence presented during the public hearing, the report of the planning board, and the staff report.
  - (2) In the case of all proposed rezonings or amendments to the LDC, such rezonings or amendments shall not be adopted except by the affirmative vote of four members of the city council. All applications for a LDC amendment or a rezoning shall be considered and approved by the city council by ordinance.
  - (3) Rezonings. No rezoning shall be permitted to exceed the density of a zoning district permissible under the density rating system and the comprehensive plan.

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- (4) Notice.
- a. Notice of city council hearings for a rezoning shall be afforded pursuant to sub-section (f)(1), (2), and (3)b.
  - b. Notice of city council hearings for an LDC amendment shall be afforded pursuant to sub-section (f)(3)b. as appropriate.
  - c. The number of hearings to be required shall be as set forth in the appropriate provision in sub-section (f)(3)b. and F.S. § 166.041(3).
- (5) Failure of city council to act. If a planning board recommendation is not decided within 210 days of the date of closing of the public hearing by the city council, the application upon which the report and recommendation is based shall be deemed to have been denied; provided, that the city council may refer the application to the planning board for further study.
- (e) *Conduct of city council and planning board hearings.*
- (1) *Continuance and deferrals.*
    - a. The city council or the planning board may continue or defer a scheduled public hearing to a date and time certain without further notice; provided, that the date and time of the continuance or deferral is announced at the originally scheduled hearing. Notice in compliance with Florida's Government-in-the-Sunshine Law, F.S. § 286.011, must be given prior to the continued public hearing date.
    - b. If a quorum physically present at the advertised public hearing location is not obtained at the time of the advertised public hearing, the city manager or the department director (or said director's designee) may publicly announce the continuance of the public hearing without further notice; provided, that the location, date and time of the continuance or deferral is announced at the originally scheduled hearing. In addition, notice in compliance with Florida's Government-in-the-Sunshine Law, F.S. § 286.011, must be given prior to the continued public hearing date.
  - (2) *Rescheduled meeting dates.* Prior to the advertised public hearing, if the city manager or the director determines that a quorum physically present at the meeting site can not be obtained, the city manager, the director, or the director's designee, may direct that the meeting will be continued until a specific date and time certain. Prior to the continued meeting, notice must be posted in a conspicuous location at the entrance to the meeting room where the meeting was scheduled to take place of the date and time to which the meeting was continued, and prior to the meeting, notice must be conspicuously posted on the city's internet web-site.
  - (3) *Reliance on information presented by applicant.* The city and its departments, boards, and agencies, shall have the right to rely on the accuracy of statements, documents, and all other information presented to them by the applicant, or the applicant's agent or consultants, in review of an application for development approval issued under this Code. The applicant shall execute an application form for the development permit which includes the following statement: "Under penalties of perjury, I declare that I have read the foregoing application and all attachments thereto, and that the facts stated in it, are true," followed by the signature of the applicant making the declaration. The written declaration shall be printed or typed at the end of or immediately below the document being verified and above the signature of the person making the declaration. As provided in F.S. § 92.525(3), a person who knowingly makes a false declaration is guilty of the crime of perjury by false written declaration, a felony of the third degree, punishable as provided in F.S. §§ 775.082, 775.083, or 775.084.
  - (4) *Documents submitted at any public hearing.* The public is hereby advised that any document, paper, letter, map, book, tape, photograph, film, sound recording, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, submitted at or

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before a public hearing as a part of said public hearing or with relation to a development permit application, is hereby declared to be a public record pursuant to F.S. ch. 119, and is automatically made a part of the record of the public hearing at which it was submitted. The original public record may not be returned to the person submitting the document, and all public hearing participants are hereby so advised.

(f) *Public notice procedures.* The following procedures are public notice requirements some or all of which are to be utilized for various types of development permits to the extent specifically required in this LDC.

(1) *Posted notice/public hearing sign.*

- a. If required by this LDC, a 32 square foot sign, with a minimum of one inch wide by four inch high letters, which clearly announces the pending application(s) shall be posted on the property subject to the application in a prominent and conspicuous location clearly visible from an adjoining public right-of-way, or at such other location as designated by the director to ensure maximum exposure of the sign(s) to the public. A designated outparcel of a larger property which does not abut a public right-of-way, shall have the sign posted near the closest public right-of-way to the larger parcel.
- b. The sign shall be erected by the applicant at the their expense. Submission of an application by a property owner, or said owner's agent, shall constitute permission to post said sign. The sign shall be continuously maintained as posted by the applicant during the period prior to the advertised public hearing.
- c. The sign must contain the following information:
  1. A title stating NOTICE OF PUBLIC LAND USE HEARING. The title shall be in all capital letters with bold type;
  2. The application number(s);
  3. A description of the proposed application;
  4. The planned public hearing dates, times and locations; and
  5. The department's contact information.
- d. The sign shall be posted at least 15 days prior to the first scheduled public hearing.
- e. The sign shall be removed by the applicant within five days after the application's final hearing advertised on the sign.

(2) *Courtesy mailed notices.*

- a. If required by this LDC, courtesy notices shall be provided in addition to any legally required notice by state law. These notices are provided as a courtesy to certain persons that may be affected by a development permit application for the purpose of notifying those persons of the application and their ability to review submitted information and participate in public hearings or neighborhood information meetings. The failure of a property owner to receive a courtesy notice shall not be deemed as a failure to furnish or receive legally required written notice pursuant to this LDC. The failure of the applicant to send a courtesy notice shall be deemed as a failure to furnish legally required written notice pursuant to this LDC.
- b. The cost of providing the courtesy notice as required by this LDC shall be the sole responsibility of the development permit applicant or said applicant's designated agent. Failure to comply with the provisions of this section in a timely manner may result in a postponement of the scheduled hearing until the notice is complete, or imposition by the department that a re-notice by the applicant must be accomplished at the applicant's sole expense.

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- c. A courtesy notice shall be mailed to all real property owners of real property any part of which is located within 300 feet of the real property subject to a development permit application. The 300-foot radius shall be measured in a straight line in all directions from the outermost boundary of the real property subject to a development permit application to any real property any part of which is within the 300-foot radius. Real property owners to whom a courtesy notice shall be given by mail shall be the real property owners of record as shown in the records of the county property appraiser at the time of mailing of the notice. The failure of a property owner to receive a courtesy notice shall not be deemed as a failure to receive legally required written notice pursuant to this LDC subsection. The mailed notice shall be sent by first class mail, by the applicant. Notice need not be given to the trustees of the internal improvement fund as the owners of submerged bottoms of real property. When mailing receipts they shall be promptly filed with the city.
- d. If any part of the "common elements", as defined in F.S. § 718.103, of a condominium or any part of the "common areas," as defined in F.S. § 719.103, of a cooperative building, is within the required notice limits, notice shall be sent to the condominium or cooperative association as well as each unit owner in the subject building. If real property within an adjacent governmental jurisdiction is within the notice limits, notice shall be required to be given to each owner of a parcel of land within the adjacent jurisdiction.
- e. The courtesy notice shall be deposited in and postmarked by the U.S. mail at least 15 days prior to the scheduled public hearing or neighborhood information meeting, being noticed. The courtesy notice shall be mailed first class mail. Copies of all mailing receipts shall be promptly filed with the city clerk.
- f. The mailed courtesy notice shall contain the following information:
1. A title stating NOTICE OF PUBLIC LAND USE HEARING, which shall be at the top of the notice page, conspicuously placed, in bold type with at least 72 point type;
  2. A description of the application in layman's English language terms, that is the subject of the hearing, including the type(s) of approval requested, and the application number(s);
  3. A statement that information regarding the application(s), including planned public hearing dates, times, and locations, and a written staff report may be obtained from the department;
  4. A notification that any member of the public may attend the noticed meeting and be heard or may submit written comments prior to the meeting to the director or at the meeting;
  5. A notice that the public hearing or neighborhood information meeting may be continued from time to time;
  6. The department's contact information, including address, telephone number, and e-mail address;
  7. Wording consistent with F.S. § 286.0105, as follows:

Pursuant to F.S. § 286.0105, the City hereby advises you that if you or another person decide to appeal any decision made by the Planning Board or the City Council with respect to any matter considered at its meeting or this hearing that you or said person may need to insure that a verbatim record of the proceedings is made at your expense, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law; and

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8. Wording consistent with F.S. § 286.26, as follows:

In accordance with the Americans with Disabilities Act and F.S. § 286.26, persons with disabilities needing special accommodation to participate in this proceeding should contact the city clerk at least 48 hours prior to the proceedings at (239) 389-5000 for assistance.

In the event of a neighborhood information meeting (NIM), the notice shall omit the contact of the city clerk and the city's telephone and in place thereof insert the name of the applicant coordinating the meeting and the applicant's phone number; and

9. The legal description or street address of the property subject to the application.

- g. The mailed courtesy notice shall contain a graphic representation of the site's location and surrounding area in sufficient detail to clearly locate the property.

(3) *Advertised public hearing notice.*

- a. *Planning board public hearing; neighborhood information meeting (NIM) notice.* Where the proposed amendment would rezone or change the zoning classification of land in the official zoning atlas or would amend the LDC, the planning board shall hold one public hearing noticed in a newspaper of general circulation at least 15 days prior to the public hearing.

The advertisement shall contain all of the requirements set forth in sub-sections (f)(2)f.2—9. of this section with a title substantially as follows and advising of a "Notice of Land Use Change." The cost of the legal advertisement shall be the responsibility of the applicant. The city clerk shall place the legal advertisement in a newspaper of general circulation.

In the event of a neighborhood information meeting (NIM), the meeting shall be advertised in a newspaper of general circulation at least 15 days prior to the neighborhood information meeting. The advertisement shall contain all of the requirements set forth in sub-sections (f)(2)f.2.—9. of this section with a title substantially as follows and advising of a "Notice of Land Use Change." The cost of the legal advertisement shall be the responsibility of the applicant. The applicant shall place the legal advertisement in a newspaper of general circulation and supply proof of publication to the director within not more than 15 days after the neighborhood information meeting. The responsibility for the form of the advertisement complying with this provision shall be that of the applicant.

- b. *City council public hearing.* City council public hearings shall be advertised as follows:

1. Applications initiated by other than the city council, planning board, or city manager that change the zoning designation of a parcel or parcels of land in the official zoning atlas shall be enacted pursuant to F.S. § 166.041(3)(a). The advertisement shall contain all of the requirements set forth in subsections (f)(2)f.2.—9. of this section with a title substantially as follows and advising of a "Notice of Land Use Change."
2. Applications initiated by the city council, planning board, or city manager that change the zoning designation of a parcel or parcels of land in the official zoning atlas consisting of ten or more contiguous acres shall be enacted pursuant to F.S. § 166.041(3)(c). The advertisement shall contain all of the requirements set forth in subsections (f)(2)f. and g. of this section. Applications initiated by the city council, planning board, or city manager that change the zoning designation of a parcel or parcels of land in the official zoning atlas consisting of less than ten contiguous acres of land shall be advertised pursuant to F.S. § 166.041(3)(a), and must be noticed as provided in F.S. § 166.041(3)(c)1.
3. Applications that amend LDC provisions other than those provisions that contain the actual list of permitted, conditional, or prohibited uses within a zoning category shall be enacted

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pursuant to F.S. § 166.041(3)(a). The advertisement shall contain all of the requirements set forth in subsection (f)(2)f. of this section.

4. Applications that amend the LDC provisions by changing the actual list of permitted, conditional, or prohibited uses within a zoning category shall be enacted pursuant to F.S. § 166.041(3)(c). The advertisement shall contain all of the requirements set forth in subsection (f)(2)f. of this section.

(g) *Reserved.*

(h) *Limitations on the rezoning of property.*

- (1) No change in the zoning classification of property shall be considered which involves less than 43,560 square feet of area and 200 feet of street frontage except: where the proposal for rezoning of property involves an extension of an existing or similar adjacent district boundary; within the broader land use classification of "C" districts, "RSF" districts, "RMF" districts, wherein such rezone is compatible with, or provides appropriate transition from, adjacent districts of higher density or intensity; or a rezoning to planned unit development (PUD). The minimum acreages for rezoning of property to PUD are found in the PUD section of the LDC. However, the requirement of 200 feet of street frontage shall not apply to rezone petitions that provide 80 percent or more affordable housing units.
- (2) Whenever the city council has denied an application for the rezoning of property, the planning board shall not thereafter:
  - a. Consider any further application for the same rezoning of any part or all of the same property for a period of 365 days from the date of rendition of such denial;
  - b. Consider an application for any other kind of rezoning of any part or all of the same property for a period of 180 days from the date of such action.
- (3) Except as otherwise provided within this section, all rezoning approvals for which a final development order, such as a building permit or similar type of development order, has not been granted within the 1,826 days of the date of rendition of a rezoning approval shall be evaluated to determine if the zoning classification for the property should be changed to a lower, or other more suitable classification. Yearly the director shall prepare a report to the city council on the status of rezoned property advising the city council whether there are any properties that are subject to this provision. The purpose of the report will be to evaluate what procedural steps have been taken to develop affected real property under its current zoning classification.
  - a. With regard to real property subject to this subparagraph c., should the director determine that development has commenced, then the land shall retain its existing zoning classification and shall not be subject to additional review and classification change which would deprive the property owner or developer of a vested right to develop.
  - b. With regard to real property subject to this subparagraph c., should the director determine that development has not commenced, and then upon review and consideration of the report and any supplemental information that may be provided, the city council shall elect one of the following:
    1. To take no action with regard to the current zoning classification on the property for a maximum period of another 1,826 days; at the end of which time, the property shall again be evaluated under the procedures as defined herein; or
    2. Direct the appropriate city staff to begin rezoning procedures for said property. The existing zoning classification of the property shall remain in effect until issuance of a development order relating to rezoning by the city council on the property.

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- c. In the case of developments of regional impact and planned unit developments, time limit restrictions shall be superseded by the phasing plan and/or time limits contained within the application for development approval and approved as part of a development order in conformance with F.S. § 380.06 or the planned unit development ordinance.
- (i) *Waiver of time limits.* The time limits of subsection (h) above may be waived by four affirmative votes of the city council when such action is deemed necessary to prevent injustice or to facilitate the proper development of the city.
- (j) *Applications for rezones to a specific use.* The applicant for any rezoning application may, at his or her option, propose a specific use or ranges of uses permitted under the zoning classification for which application has been made. As a condition of approval of such proposal, the development of the property which was the subject of the rezoning application shall be restricted to the approved use or range of uses. Any proposed addition to the approved use or range of uses shall require resubmittal of a rezoning application for the subject property.
- (k) *Rezoning; provision of adequate public facilities.* The petitioner may provide all required community and public facilities and services in support of the requested rezoning in any one of the following manners:
- (1) Petition for a rezoning at such time as all required adequate existing community and public facilities and services have been provided at public expense according to the capital improvement program; or
  - (2) Petition for a rezoning at such time as all required existing community and public facilities and services have been provided at the private expense of the petitioner; or
  - (3) Post a surety in lieu of completed improvements to guarantee that all of the required community and public facilities and services will be timely provided; or
  - (4) Facilities for parks and schools through land dedication or fee in lieu of such dedication; or
  - (5) Other method acceptable to city council.

(Ord. No. 02-08, § 2, 2-4-2002; Ord. No. 17-09, § 3, 12-4-2017; Ord. No. 18-10, § 2, 6-18-2018; Ord. No. 19-11, § 2, 4-15-2019; Ord. No. 25-08, § 2, 9-8-2025)