



Legislation Text

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**File #: 2018-0153, Version: 1**

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**AMEND § 154.03 PRIVATE PARTIES/ZONING AMENDMENT (A) PETITION:**

AN ORDINANCE TO AMEND § 154.03 **PRIVATE PARTIES/ZONING AMENDMENT (A) PETITION**

**WHEREAS**, the Planning Department, Planning Commission, City Council and neighbors would benefit by receiving more information from a rezoning applicant than is currently required by § 154.03 **Private Parties/Zoning Amendment**.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby repeals (A) *Petition* of § 154.03 **Private Parties/Zoning Amendment** in its entirety and enacts a replacement (A) *Application* as follows:

“(A) *Application*. A landowner or authorized agent/representative may apply for a rezoning of the landowner’s property by completing, signing and submitting the Planning Department’s Rezoning Application with all required documentary attachments, paying the rezoning application fee and providing at least the following information (as well as all information required by the Rezoning Application):

- (1) The full name and address of the property owner and any designated agent or representative.
- (2) The legal description of the property requested to be rezoned and the proposed new zoning district(s).
- (3) A signed Certificate of Mailing to notify all adjacent property owners of this requested rezoning.
- (4) A statement explaining the compatibility of this proposed rezoning with neighboring property and explaining why the proposed rezoning will not unreasonably adversely affect or conflict with surrounding land uses.”

**City of Fayetteville Staff Review Form**

**2018-0153**

**Legistar File ID**

**3/20/2018**

City Council Meeting Date - Agenda Item Only  
N/A for Non-Agenda Item

Kit Williams

3/5/2018

CITY ATTORNEY (021)

**Submitted By**

**Submitted Date**

**Division / Department**

**Action Recommendation:**

AN ORDINANCE TO AMEND § 154.03 Private Parties/Zoning Amendment (A) Petition

**Budget Impact:**

Account Number	Fund
Project Number	Project Title
<b>Budgeted Item?</b> <u>NA</u>	Current Budget \$ -
	Funds Obligated \$ -
	Current Balance \$ -
<b>Does item have a cost?</b> <u>No</u>	Item Cost
<b>Budget Adjustment Attached?</b> <u>NA</u>	Budget Adjustment
	Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution # \_\_\_\_\_

Original Contract Number: \_\_\_\_\_

Approval Date: \_\_\_\_\_

Comments:



OFFICE OF THE  
CITY ATTORNEY

## DEPARTMENTAL CORRESPONDENCE



Kit Williams  
*City Attorney*

Blake Pennington  
*Assistant City Attorney*

Rhonda Lynch  
*Paralegal*

TO: **Mayor Jordan**  
**City Council**

CC: **Don Marr**, Chief of Staff  
**Garner Stoll**, Development Services Director

FROM: **Kit Williams**, City Attorney

A handwritten signature in blue ink, appearing to read "Kit Williams", with a long horizontal line extending to the right.

DATE: **March 1, 2018**

RE: **Amendment of § 154.03 Private Parties/Zoning  
Amendment (A) *Petition***

The current U.D.C. § 154.03 **Private Parties/Zoning Amendment (A)** relates all the way back to Ordinance No. 1747 of June 29, 1970 when the Official Zoning Map of Fayetteville was formally adopted as well as all zoning districts, use units, development requirements, etc. The language in Article 12 Amendments 1. B) of this "COMPREHENSIVE ORDINANCE REGULATING AND RESTRICTING IN USE OF LAND. . ." is almost identical to the current § 154.03 (A). I have provided a few pages of this historic ordinance for your convenience.

Almost a half century later, I believe we need to change this U.D.C. code section to better ensure the Planning Department, Planning Commission, City Council and neighboring citizens receive more complete and relevant information from a rezoning applicant. I thus have drafted a proposed amendment which maintains the currently required information, but adds significantly more required information to help the Planning Department and Planning Commission better advise the City Council about a rezoning request.

**154.03 Private Parties/Zoning Amendment**

- (A) *Petition.* Any private party or parties desiring an amendment to Chapter 160, upon payment of the appropriate fee, shall submit to the Planning Commission a petition giving the following information:
- (1) Legal description of the property involved;
  - (2) Zoning classification request for the property; and,
  - (3) Statement explaining why the proposed changes will not conflict with the surrounding land uses.
- (B) *Action by Planning Commission.*
- (1) The Planning Commission may forward the rezoning request as submitted or amended by the Planning Commission to the City Council with a recommendation of approval.
  - (2) The Planning Commission may disapprove the rezoning request so that the rezoning request will not be considered by the City Council unless the applicant properly appeals.
- (C) *Action by the City Council.*
- (1) The City Council may by majority vote approve and enact the rezoning ordinance as recommended by the Planning Commission or as requested by the applicant who has properly appealed the Planning Commission's denial of the requested rezoning.
  - (2) The City Council may amend the proposed rezoning request and approve such amended rezoning ordinance by majority vote.
  - (3) The City Council may refuse to approve the rezoning request which is thereby denied.
  - (4) The City Council can by motion return the proposed rezoning to the Planning Commission for further study and recommendation.
- (D) *Re-petitions for amendment.* No application for zoning amendments will be considered by the Planning Commission within twelve (12) months from the date of final disapproval of a proposed amendment unless there is evidence submitted to the Planning Commission which justifies reconsideration.
- (E) *Withdrawal.*
- (1) *Before publication.* A petition for amendment may be withdrawn at any time before publication of the notice and posting signs for the public hearing.
  - (2) *After publication and posting of notice.* After the publication and posting of notice, the petition may be withdrawn at the discretion of the Planning Commission. If the petition is permitted to be withdrawn after the public hearing, it shall be in the Planning Commission's discretion whether or not a petition affecting part or all of the same property may be refiled sooner than one (1) year from the date of withdrawal.

(Code 1965, App. A., Art. 12(1); Ord. No. 1747, 6-29-70; Ord. No. 2538, 7-3-79; Code 1991, §160.156; Ord. No. 2716, §1, 6-15-93; Ord. No. 3925, §7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 5521 9-4-12)

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ORDINANCE NO. 1747

*City Ord*

A COMPREHENSIVE ORDINANCE REGULATING AND RESTRICTING THE USE OF LAND AND THE USE AND LOCATION OF BUILDINGS AND STRUCTURES; REGULATING THE BULK OF BUILDINGS AND STRUCTURES AND DETERMINING THE AREA OF YARDS, COURTS AND OTHER PLACES SURROUNDING THEM; REGULATING AND RESTRICTING THE DENSITY OF USE; DIVIDING THE CITY OF FAYETTEVILLE INTO DISTRICTS FOR SUCH PURPOSES; ADOPTING AN OFFICIAL ZONING MAP OF SAID CITY SHOWING BOUNDARIES AND THE CLASSIFICATION OF SUCH DISTRICTS; ESTABLISHING A BOARD OF ADJUSTMENT; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.

FILED  
FOR RECORD  
70 JUL 10 AM 11:56  
WASHINGTON COUNTY  
ARKANSAS  
ALMA KOLLMEYER  
CIRCUIT CLERK

considering and adopting or rejecting proposed amendments or the repeal of this ordinance, as provided by law, and (2) establishing a schedule of fees and charges as stated in Article 11.

ARTICLE 11. SCHEDULE OF FEES, CHARGES AND EXPENSES.

The City Board of Directors shall by ordinance establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the Planning Administrator and may be altered or amended only by the City Board of Directors.

Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

ARTICLE 12. AMENDMENTS.

The City Board of Directors may from time to time amend this ordinance. Members of the City Board of Directors or any other official or person may petition for an amendment to the ordinance, which petition shall first be submitted to the Planning Commission for its report and recommendations.

1. Amendment Procedure for Private Parties.

- a) Fee. Any private party or parties desiring a zoning change shall pay a fee of \$25 to the City Controller to cover the costs of public notices and related expenses.
- b) Petition. Any private party or parties desiring an amendment to the ordinance, upon payment of the above fee, shall submit to the Planning Commission a petition giving the legal description of the property involved and the zoning classification requested for the property. The petition shall also include a statement and diagram explaining why the proposed changes will not conflict with surrounding land uses.
- c) Public hearing. Upon receipt of a petition for an amendment, the Planning Commission shall hold a public hearing on the proposed amendment, after:



minimum width required by the district regulations with its inner edge parallel with the rear lot line.

Yard, Special. A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the Planning Administrator shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

ARTICLE 18. LEGAL STATUS

1. Conflicting Ordinances Repealed.

All ordinances or parts of ordinances of the City of Fayetteville in conflict herewith, including but not limited to the following ordinances, are hereby repealed: Ordinances Nos. 1002, 1005, 1008, 1037, 1049, 1077, 1079, 1081, 1087, 1090, 1095, 1097, 1117, 1139, 1148, 1157, 1158, 1163, 1181, 1195, 1199, 1200, 1201, 1206, 1238, 1239, 1276, 1282, 1284, 1302, 1339, 1425, 1468, 1493, 1501, 1540.

2. Effective Date.

This Ordinance being necessary for the preservation of the public peace, health, comfort, convenience, morals, safety and welfare of the City of Fayetteville, an emergency is declared to exist and this Ordinance shall be in full force from the date of its approval.

PASSED AND APPROVED, this 29 day of June, 1970.

*Garland Melton Jr*  
Garland Melton, Jr., Mayor

ATTEST:

*Marilyn Moore*  
Marilyn Moore, City Clerk