

City of Fayetteville Staff Review Form

2021-0074

Legistar File ID

2/2/2021

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

Blake Pennington

1/28/2021

CITY ATTORNEY (021)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

PASSAGE OF AN ORDINANCE TO AMEND §157.03 ANNEXATION AND ZONING MAP AMENDMENTS IN CHAPTER 157 NOTIFICATION AND PUBLIC HEARINGS TO CLARIFY THAT PLANNING COMMISSION HEARINGS ARE ONLY REQUIRED FOR PRIVATE PARTY PETITIONS FOR ANNEXATION AND AMENDMENTS TO THE ZONING MAP

Budget Impact:

Account Number	Fund
Project Number	Project Title
Budgeted Item? <u>NA</u>	Current Budget \$ -
	Funds Obligated \$ -
	Current Balance \$ -
Does item have a cost? <u>NA</u>	Item Cost
Budget Adjustment Attached? <u>NA</u>	Budget Adjustment
	Remaining Budget \$ -

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Jonathan Curth**, Development Services Director

FROM: **Blake Pennington**, Assistant City Attorney

DATE: **January 28, 2021**

RE: **Clarification of Notice Requirements for Private Party Zoning Amendment and Annexation Petitions**

§ 154.01 of the Unified Development Code governs how the City Council may make amendments to the Unified Development Code. Subsection (A) provides that the City Council may refer a matter to the Planning Commission for study and recommendation, which requires a public hearing at the time the Planning Commission is considering the matter.

In subsection (B), however, the City Council reserved to itself the power to adopt amendments without prior referral to the Planning Commission. That includes zoning map amendments, annexations, and other code revisions.

The current language in § 157.03 of the Unified Development Code, which covers public notification and hearings for annexations and zoning map amendments, could be interpreted to require Planning Commission review of all annexations and zoning map amendments, even though that is clearly inconsistent with the City Council's reserved power in § 154.01(B).

As you know, any ordinance considered by the City Council is subject to public notification and three separate readings (unless the rules are suspended). Our office suggests adopting an amendment so that the public notification and hearing requirements in § 157.03 clearly apply only to annexation and zoning map amendments that are initiated by private parties and do not apply to those initiated by the City Council. The current language and a redline version of the proposed language are attached for your reference.

Current Language

157.03 - Annexation And Zoning Map Amendments

Notification of public hearings for annexation petitions and zoning map amendments (including planned zoning districts) shall occur as follows:

- (A) Public Hearing Required. Upon receipt of a petition for an annexation or an amendment to the zoning map, the Planning Commission shall hold a public hearing on the proposed amendment.

Proposed Language (with strikethroughs and insertions)

157.03 - Annexation And Zoning Map Amendments

Notification of public hearings ~~for~~on private party petitions for annexation ~~petitions~~ and zoning map amendments (including planned zoning districts) shall occur as follows:

- (A) Public Hearing Required. Upon receipt of a private party petition for an annexation or an amendment to the zoning map, the Planning Commission shall hold a public hearing on the proposed amendment.