

Legistar ID No.: _____

AGENDA REQUEST FORM

FOR: Council Meeting of July 20, 2021

FROM: Council Member Sloan Scroggin

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

AN ORDINANCE TO AMEND §157.03 ANNEXATION AND ZONING MAP AMENDMENTS TO REQUIRE PUBLIC NOTIFICATION OF PLANNING COMMISSION DENIALS OF REZONING REQUESTS IF APPEALED TO THE CITY COUNCIL

APPROVED FOR AGENDA:



Council Member Sloan Scroggin

6/30/2021
Date



City Attorney Kit Williams
Approved as to form

June 30, 2021
Date



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: Mayor
City Council

CC: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director

FROM: Kit Williams, City Attorney

DATE: June 18, 2021

RE: New Requirement For Public Notification For Property Owner's Appeal Of Planning Commission's Denial Of Rezoning

Council Member Sloan Scroggin asked Jonathan Curth and me to prepare an amendment to the Unified Development Code to require a second public notification if a rezoning applicant appeals to the City Council after being denied by the Planning Commission. We worked in consultation with Council Member Scroggin to come up with the most concise and clear way to accomplish requiring this new notification requirement in the *Unified Development Code*. We made a few very minor changes to §157.03 **Annexation And Zoning Map Amendments** to include reference to rezoning requests and the required public notification of rezoning requests denied by the Planning Commissions which are then appealed to the City Council.

First the Title needed to be changed to add "Rezoning." Next the introductory language for §157.03 also needed to include "rezoning." Thirdly, we needed to amend §157.03(A) to add "rezoning." Finally, we needed to add a new subsection (3) to §157.03(B). Below is how we suggest a slightly revised §157.03 should read:

"157.03 Annexations, Zoning Map Amendments, And Rezoning

Notification of public hearings on private party petitions for annexations, zoning map amendments and rezonings shall occur as follows:

- (A) Public Hearing Required. Upon receipt of a private party petition for an annexation, an amendment to the zoning map, or a rezoning, the Planning Commission shall hold a public hearing on the proposed amendment.
- (B) Notice of Public Hearing. The applicant shall provide the following notice:
 - (1) Who Gets Notice. Notice of the proposed action shall be given to all landowners and residents with separate addresses within 200 feet of the boundary line of the property on which the use is proposed. Residents with separate addresses shall be notified by first class letter addressed to the 'current resident' to each address found in the city's address point file.
 - (2) Methods of Notice. Notice shall be provided by the following methods, as required by this chapter:
 - (a) Written Notice. Written notice shall be provided at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
 - (b) Posted Notice. The applicant shall post notice at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
 - (c) Published Notice. Notice of public hearing shall be given by the city by publishing a notice in a newspaper of general circulation in the city, at least one time, at least fifteen (15) days prior to Planning Commission.
 - (3) Appeal of Planning Commission Denial of Rezoning Request. Applicants for a rezoning with zoning map amendment denied by the Planning Commission must give both the written and posted notice of the appeal to the City Council as specified in this section at least fifteen (15) days prior to the City Council meeting. Proof of notice shall be provided as required by this chapter."

This will add additional duties for the Planning Department staff and additional costs and time for the rezoning applicant. We tried to keep these additional costs as small as possible by not requiring an additional newspaper publication and instead rely upon written mail notification of neighbors and new signs posted on the site.

Proposed New Code Section 157.03

- (a) Written Notice. Written notice shall be provided at least seven (7) days prior to Subdivision Committee and at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
 - (b) Posted Notice. The applicant shall post notice at least seven (7) days prior to Subdivision Committee and at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
- (D) Large Scale Development applications that are subject to administrative approval are exempt from the notification requirements of this code subsection, however, they are subject to and shall complete the public notification requirements for a Large Site Improvement Plan application.

(Code 1965, App. C., Art. IV, §1; App. A., Arts. 5, 5(IIA), 8(12), 12(1); App. C., Art. V, §F; Ord. No. 1747, 6-29-70; Ord. No. 1750, 7-6-70; Ord. No. 1903, 3-6-73; Ord. No. 2379, 9-20-77; Ord. No. 2538, 7-3-79; Ord. No. 2582, 12-4-79; Ord. No. 2603, 2-19-80; Ord. No. 2633, 5-20-80; Ord. No. 2710, 3-24-81; Ord. No. 2779, 11-17-81; Ord. No. 2980, 2-7-84; Ord. No. 3128, 10-1-85; Ord. No. 1747, 6-29-70; Code 1991, §§159.54, 159.68, 160.032, 160.035, 160.121(L), (M), 160.156; Ord. No. 2716, §1, 6-15-93; Ord. No. 3925, §§6, 7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 5183, 10-7-08; Ord. No. 5296, 12-15-09; Ord. No. 5653, 01-21-14; Ord. No. 6212, §2, 8-6-19)

157.03 Annexations, Zoning Map Amendments, And Rezoning

Notification of public hearings on private party petitions for annexations, zoning map amendments and rezonings shall occur as follows:

- (A) Public Hearing Required. Upon receipt of a private party petition for an annexation, an amendment to the zoning map, or a rezoning, the Planning Commission shall hold a public hearing on the proposed amendment.
- (B) Notice of Public Hearing. The applicant shall provide the following notice:
 - (1) Who Gets Notice. Notice of the proposed action shall be given to all landowners and residents with separate addresses within 200 feet of the boundary line of the property on which the use is proposed. Residents with separate addresses shall be notified by first class letter addressed to the 'current resident' to each address found in the city's address point file.
 - (2) Methods of Notice. Notice shall be provided by the following methods, as required by this chapter:
 - (a) Written Notice. Written notice shall be provided at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
 - (b) Posted Notice. The applicant shall post notice at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
 - (c) Published Notice. Notice of public hearing shall be given by the city by publishing a notice in a newspaper of general circulation in the city, at least one time, at least fifteen (15) days prior to Planning Commission.
 - (3) Appeal of Planning Commission Denial of Rezoning Request. Applicants for a rezoning with zoning map amendment denied by the Planning Commission must give both the written and posted notice of the appeal to the City Council as specified in this section at least fifteen (15) days prior to the City Council meeting. Proof of notice shall be provided as required by this chapter.

(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. 3716, §1, 6-15-93; Ord. No. 3925, §7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 5183, 10-7-08; Ord. No. 5920, §1, 10-18-16; Ord. No. 6212, §2, 8-6-19; Ord. No. 6417 §1, 3-2-21)

Current Law

- (a) **Written Notice.** Written notice shall be provided at least seven (7) days prior to Subdivision Committee and at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
- (b) **Posted Notice.** The applicant shall post notice at least seven (7) days prior to Subdivision Committee and at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.

(D) **Large Scale Development applications** that are subject to administrative approval are exempt from the notification requirements of this code subsection, however, they are subject to and shall complete the public notification requirements for a Large Site Improvement Plan application.

(Code 1965, App. C., Art. IV, §1; App. A., Arts. 5, 5(IIA), 8(12), 12(1); App. C., Art. V, §F; Ord. No. 1747, 6-29-70; Ord. No. 1750, 7-6-70; Ord. No. 1903, 3-6-73; Ord. No. 2379, 9-20-77; Ord. No. 2538, 7-3-79; Ord. No. 2582, 12-4-79; Ord. No. 2603, 2-19-80; Ord. No. 2633, 5-20-80; Ord. No. 2710, 3-24-81; Ord. No. 2779, 11-17-81; Ord. No. 2980, 2-7-84; Ord. No. 3128, 10-1-85; Ord. No. 1747, 6-29-70; Code 1991, §§159.54, 159.68, 160.032, 160.035, 160.121(L), (M), 160.156; Ord. No. 2716, §1, 6-15-93; Ord. No. 3925, §§6, 7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 5183, 10-7-08; Ord. No. 5296, 12-15-09; Ord. No. 5653, 01-21-14; Ord. No. 6212, §2, 8-6-19)

157.03 Annexation And Zoning Map Amendments

Notification of public hearings on private party petitions for annexation 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.
- (B) **Notice of Public Hearing.** The applicant shall provide the following notice:
 - (1) **Who Gets Notice.** Notice of the proposed action shall be given to all landowners and residents with separate addresses within 200 feet of the boundary line of the property on which the use is proposed. Residents with separate addresses shall be notified by first class letter addressed to the 'current resident' to each address found in the city's address point file.
 - (2) **Methods of Notice.** Notice shall be provided by the following methods, as required by this chapter:
 - (a) **Written Notice.** Written notice shall be provided at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
 - (b) **Posted Notice.** The applicant shall post notice at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
 - (c) **Published Notice.** Notice of public hearing shall be given by the city by publishing a notice in a newspaper of general circulation in the city, at least one time, at least fifteen (15) days prior to Planning Commission.

(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. 3716, §1, 6-15-93; Ord. No. 3925, §7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 5183, 10-7-08; Ord. No. 5920, §1, 10-18-16; Ord. No. 6212, §2, 8-6-19; Ord. No. 6417 §1, 3-2-21)

157.04 Indefinitely Tabled Rezoning Ordinance

If the City Council removes from the table any indefinitely tabled rezoning ordinance, the City Council may not pass this ordinance at that meeting. The applicant shall be required to repost the Planning Department's notice signs