

Amendments and Rezoning

**Chapter
1139**



Section 1139-1 Amendments

- A. Whenever the public necessity, convenience, general welfare or good zoning practices require, City Council may, after receipt of a recommendation from the Planning and Zoning Commission, pass legislation to amend, supplement or change the regulations, district boundaries or classification of property, established by this code, subject to the procedures specified in this chapter.
- B. It shall be the duty of the Planning and Zoning Commission to submit its recommendations to City Council regarding all applications for zoning amendments, supplements or changes to zoning regulations, changes to planned districts, changes in district boundaries or changes to classifications of property.

Section 1139-2 Application, Notice and Hearing Procedure

- A. *Applications.* Applications shall be submitted to the City Planner on a form for that purpose, along with supporting information, materials and documentation that may be required or helpful in explaining the request to assure the fullest presentation of facts. Incomplete applications shall not be considered. Each application shall be verified by the owner(s) of the property that is the subject of the application, attesting to the truth and correctness of all facts and information. Zoning amendments initiated by the Planning and Zoning Commission shall be accompanied by a copy of the motion and vote pertaining to the proposed amendment.
- B. *Fees.* Application fees shall be charged and paid in accordance with Chapter 190 of the City's Codified Ordinances, from which the City and the Planning and Zoning Commission is exempt.
- C. *Notice of Public Hearing by Commission.* The Commission shall hold a public hearing for Zoning Code and Map amendments. For Zoning Map amendments and conditional uses, each application shall contain the names and addresses of all property owners lying within 200 feet of any part of the property which is the subject of an application.
 - 1. Not less than fourteen (14) days prior to the hearing, notice of the time, place and purpose of the public hearing shall be sent by first class mail to all property owners within 200 feet of the subject property.
 - 2. Notice to the general public of the Planning and Zoning Commission's agenda shall be publicized in a newspaper of general circulation at least fourteen (14) days prior to the hearing.
 - 3. It is the intention of this section to provide, so far as possible, due notice to persons substantially interested in the application that is before the Planning and Zoning Commission. Mailed notices to surrounding property owners (within 200 feet) are not required for subsequent hearings on the same application.
 - 4. Fourteen (14) days prior to a hearing date, the agenda of a Planning and Zoning Commission meeting shall be displayed on the City's website and on the public bulletin board in City Hall, containing information as to the place or places and times at which applications, including text and maps, may be examined by members of the public.
- D. *Action of Commission on Applications.* At the hearing, the Planning and Zoning Commission may vote to recommend that the application for a code amendment be granted, as requested, or it may

recommend that the application be approved based on certain conditions being met or more modifications being made, or it may recommend that the request not be granted. The clerk of the Commission shall then forward the recommendation to City Council within 14 calendar days after the hearing.

- E. *Public Hearing by City Council.* City Council shall hold and provide notice of public hearings on zoning applications consistent with the City's Charter and notice to property owners consistent with subsection C. 1, above. It is the intention of this section to provide, so far as possible, due notice to persons substantially interested in the application that is before City Council. Mailed notices to surrounding property owners are not required for subsequent hearings before City Council on the same application.
- F. *Action of City Council.* After holding the public hearing, City Council shall consider the Planning and Zoning Commission's recommendation on the application and shall vote on the request. Any Council action which differs from or departs from the recommendation(s) submitted by the Planning and Zoning Commission shall only take effect if passed or approved by not less than two-thirds of the membership of City Council.

Section 1139-3 Limited Overlay

- A. *Purpose.* The Limited Overlay is created as an alternative response to those situations where the minimum developments standards of an underlying zoning district are deemed inadequate to protect or maintain compatibility of land uses. The Limited Overlay is intended to be used only where special circumstances or conditions apply to the subject parcel that do not apply generally to other parcels in the same underlying zoning district; and where such limitations will be beneficial to neighboring properties and to the public interest. It is intended that an applicant for rezoning may voluntarily seek to commit the subject property and its owner to limitations and conditions not provided by the existing or proposed underlying zoning classification, or even any other zoning classification, through the establishment of a Limited Overlay.
 - 1. This section establishes a classification which provides the means to modify the application of the provisions of an underlying zoning district to a particular parcel by:
 - a. Limiting the permitted uses;
 - b. Increasing one or more of the minimum development standards;
 - c. Adding conditions for items not covered by the minimum standards, or any of the above.
 - 2. All standards of the underlying district shall be applicable unless specifically superseded in the ordinance establishing the overlay for the subject parcel.
- B. *Application.* Any person desiring the establishment of a Limited Overlay on any lot proposed to be rezoned for any permitted use may file an application in conformance with the provisions of Section 1139-2.
- C. *Development Plan.*
 - 1. In addition to filing the application, the applicant shall provide a signed and dated development plan composed of text and a plot plan, or both as required by the zoning inspector, for the Limited Overlay proposed, setting out the means for addressing the above stated purpose and specifically identifying:

- a. Any limitation to be imposed on the normal range of permitted uses by the underlying zoning district;
 - b. Any increase in a minimum development standard for the underlying zoning district;
 - c. Any additional limitation or condition to be imposed and enforced;
 - d. The intended result to be obtained by any limitation or condition set out pursuant to the above.
2. The minimum standards of the underlying zoning district shall govern unless the development plan approved by Council specifically stipulates a more stringent standard. The development plan shall be used only to increase standards and shall in no way be used or construed to grant a variance from or to decrease standards or requirements of the underlying zoning district. The development plan shall set out each characteristic of the proposed limitations and conditions and shall be referenced in the body of the ordinance establishing a Limited Overlay for the subject lot.
- D. *Project Size.* There is no minimum size for a parcel to be subject to a Limited Overlay, except that the special circumstances must apply to the entire parcel and it shall include at least one entire lot. An application may include more than one lot; provided, all lots in a specific application must be contiguous to one another. For the purposes of this section, lots separated only by a public highway, street, or alley are considered contiguous.
- E. *Permitted Uses.* In conformity with all other pertinent code provisions, within a Limited Overlay the premises or building may be used or a building may be erected which is arranged, intended, or designed to be used for any one or more of the uses permitted by the underlying zoning classification unless the normal range of permitted uses is specifically limited in the development plan referenced in the ordinance passed by Council, in which event only the more limited use or range of permitted uses shall apply.
- F. *Minimum Requirements.* Any use of a lot subject to a Limited Overlay shall meet or exceed each minimum development requirements of the underlying zoning classification unless more restrictive requirements are specifically identified in the Limited Overlay development plan, in which case the more restrictive requirements shall apply. The Limited Overlay requirements shall comply with the following criteria by being:
1. reasonably related to the accomplishment of specified goals in the Comprehensive Plan;
 2. fair, protecting the legal rights of those affected;
 3. understandable for those in the marketplace; and
 4. simple for effective interpretation and enforcement by the administration.
- G. *Conditions and Limitations.* Any use on a lot subject to a Limited Overlay shall conform to each condition or limitation specifically identified and imposed in the development plan referenced in the ordinance passed by Council.
- H. *Amendment.* All procedures required for amending or determining a zoning designation will be applied to amending any Limited Overlay permitted use standard, condition, or limitation.
- I. *Map Designation.* Upon approval of a Limited Overlay on a particular lot by the City Council, the zoning map shall be amended to indicate that the lot is subject to a Limited Overlay and its development plan by the addition of "L" immediately preceding the symbolic designation of the underlying zoning district.

- J. *Effect of the Approved Development Plan.* A development plan approved hereunder shall be binding upon the applicant and the applicant's heirs, successors, and assigns, and shall limit and control the issuance or validity of any certificate of zoning compliance subject, however, to any valid and reasonable use of legislative authority in zoning regulations thereafter. The site plan for such certificate shall clearly indicate each condition and limitation of the approved development plan. The approved development plan shall be recorded as a deed restriction.