

## **SECTION 23 AMENDMENTS/REZONING**

### **Subdivision 1: PROCESS.**

1. Initiation of Process/Application. An amendment to the Zoning Ordinance or Zoning Map may be initiated by the City Council, the Planning Commission or by a petition of affected property owners (as described below).
  - A. Petition. The owner of the subject property or ten (10) or more owners of property in the City may propose a zoning amendment or change, including a rezoning, by submitting twenty (20) copies of a verified petition to the City Clerk.
  
2. Application. Prior to the issuance of a permit for any building with a foundation, a site plan for the property must be approved by the City Council after review and recommendation by the Planning Commission. The City Clerk must receive completed applications, including twenty (20) copies 11"x17" and six (6) full size (approx. 22"x34") copies, if applicable, of the site plan/certificate of survey at least ten (10) business days prior to the Planning Commission's next scheduled meeting. The site plan/certificate of survey shall contain at a minimum the following:
  - A. Name, address and phone number of property owner;
  - B. A detailed written narrative describing the scope of the project and details of the application including the current and proposed use of the property;
  - C. Street address of the property;

- D. Legal description of property (i.e. Lot/Block), including area of parcel in square footage or acreage;
- E. A current Certificate of Survey of the specified parcel, including monumentation within the tract and to a distance of 50 feet beyond the tract;
- F. North direction clearly shown;
- G. Sketch drawn to scale, not more than fifty (50) feet per inch (1"=50'), showing the parcel dimensions, location of all existing and proposed structures, building dimensions, with square footage, area, and setbacks clearly marked;
- H. Curb cuts, driveways, access roads, road centerline and right-of-way, public ways, street names, ingress, egress, and sidewalks clearly marked;
- I. Sidewalks, landscaping features, screening and fences, if any, including distances from lot lines and location and dimensions of required green space, if applicable;
- J. Any proposed entrance or driveway showing the percent of grade and direction of flow from building to street or major artery;
- K. Any existing or proposed easements crossing the property;
- L. Parking spaces, if any, including size and location of handicap spaces, off-street loading areas and vehicular circulation;

- M. Accommodations for snow storage, if applicable;
  - N. Location of waste facilities including measure used for enclosure and screening, if required (see Section 5, Subd. 3);
  - O. Show all utility poles, services lines, sanitary sewer, storm manholes, water mains, hydrants, catch basins, CATV, gas, telephone and electric lines, aerial and buried, culverts, wells or septic systems existing or proposed for the property;
  - P. Lighting locations, types of fixtures and illumination plan, if applicable per Section 5, Subd. 6;
  - Q. Location and size of signs, if any, per Section 8;
  - R. Distances to surrounding buildings and surrounding land uses;
  - S. Proposed drainage and grading plan on parcel showing direction of flow from building, elevations and drainage facilities, including storm sewers and ponding, if applicable;
  - T. Sanitary sewer and water plan with estimated use per day of proposed project, if applicable;
  - U. Any additional written or graphic information deemed necessary by the Zoning Administrator, Planning Commission or City Council.
3. Application Deadline. The City Clerk must receive completed applications at least ten (10) business days

prior to the Planning Commission's next scheduled meeting.

4. Fees. A fee the City Council shall establish by resolution must accompany the application. An additional fee may be charged, for atypical projects, which in the opinion of the City Administrator/Clerk will require additional staff time and/or City Expenditures. In such case, the applicant shall pay all costs incurred by the City, including, but not limited to, administrative staff time, engineering, legal, planning, and inspection expenses, in connection with the application, including approval and acceptance of the application and review of site plans and documents, as well as any other required agreements for the application.
5. Public Hearing. The City Clerk will set a date for the official public hearing.
  - A. Published Notice. The City will publish notice of the public hearing's time, place and purpose at least once in the City's official newspaper at least ten (10) days before the public hearing.
  - B. Mailed Notice to Property Owners. The City will also mail notice of the public hearing's time, place and purpose not less than ten (10) days and not more than thirty (30) days before the hearing date to all individual property owners within three hundred fifty (350) feet of the parcel included in the request. The City Clerk must attest and make a part of the proceeding's records a copy of the notice and list of the owners and addresses to which the notice was sent. A property owner's failure to receive notice or a defective notice shall not invalidate any proceedings.

6. Referral to Planning Commission. An amendment not initiated by the Planning Commission will be referred to the Planning Commission for study and report and may not be acted upon by the City Council prior to the recommendation of the Planning Commission, unless the Planning Commission fails to make a recommendation within sixty (60) days. The City Clerk may review the proposed amendment and provide the Planning Commission with a staff report and staff recommendation.
7. Planning Commission Review. The Planning Commission shall consider the request at their next regularly scheduled meeting and shall make a recommendation and report to the City Council.
  - A. Appearance by Applicant. The applicant or the applicant's representative(s) must appear before the Planning Commission in order to answer questions concerning the zoning amendment application.
8. Recommendation by the Planning Commission. After reviewing the proposed zoning amendment or rezoning application the Planning Commission will make a written report and recommendation to the City Council.
9. City Council's Review. Upon receiving the Planning Commission's report and recommendation, the City Council shall hold a public hearing on the matter and shall, by ordinance, either adopt or deny the proposed amendment or any part of it as the Council deems advisable. In any event, the City Council will act on an amendment request by petition within sixty (60) days after the City Clerk receives the petition or the City may extend the time for consideration under state law.

- A. Appearance by Applicant. The applicant or the applicant's representative(s) must appear before the City Council in order to answer questions concerning the zoning amendment application.
  
- 10. Vote Required. Approval of any amendment to this Ordinance will require passage by a majority vote of the full City Council, except that the adoption or amendment of any portion of this Ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds (2/3) majority vote of the full City Council.
  
- 11. Resubmission. No application of a property owner, which is substantially the same as an application of a denied rezoning request, shall be resubmitted for a period of one (1) year from the date of denial. The City Council may permit a new application if, in its opinion, new evidence or a change or circumstances warrant reconsideration.
  
- 12. Appeal. A petitioner may appeal the City Council's decision to the Benton County District Court as provided by law.

**Subdivision 2: EFFECTIVE DATE.**

Unless the City Council provides otherwise, a zoning amendment will not become effective until after the City Council approves and publishes an Ordinance reflecting the amendment.

**Subdivision 3: RECORDING.**

A certified copy of all Ordinances amending the Zoning Ordinance or rezoning any property shall be filed with the Benton County Recorder. The rezoning of any abstract or registered property shall include the legal description of the property involved.

**Subdivision 4: ZONING MAP.**

The Zoning Administrator shall revise the City's Official Zoning Map each time property within the City is rezoned. The applicant shall pay all costs of changes to the Official Zoning Map.

**Subdivision 5: COSTS OF ENFORCEMENT.**

The applicant shall pay all costs incurred by the City, including, but not limited to administrative staff time, engineering, legal, planning, and inspection expenses, in connection with the application, including approval and acceptance of the application and review of site plans and documents, recording fees, as well as any other required agreements for the application.

Sections 23 Amendments/Rezoning, Subd 1 (1-3) was amended by Ordinance Number 399 adopted August 9, 2011 and published May 22, 2012.

Section 23 Amendments/Rezoning, Subdivision 1 – Process, #4, was amended and Subdivision 5 was added by Ordinance Number 414, adopted November 5, 2013, and published November 12, 2013.