
Dover Code of Ordinances, Appendix B: Zoning

Article 10 – Planning Commission

Section 5. Amendments.

This article or any part thereof may be amended, supplemented or repealed, from time to time, by the city council on its own motion or upon application, as provided in chapter 3 of title 22, Municipalities of the Delaware Code Annotated (22 Del. C. § 301 et seq.). Every such proposed amendment shall be referred by the city council to the planning commission for a report before the public hearing. The city council shall not take action on any such amendment without a report from the planning commission unless the planning commission fails to render such a report within 75 days after its regularly scheduled meeting following such referral.

5.1 *Types of amendments to the ordinance.* The following are the types of amendments that may be made to the ordinance:

- 5.11 *Zoning text amendments.* Amendments to ordinance text may be made upon initiation of the city planner or under sponsorship of three members of city council.
- 5.12 *Map amendment by application.* A property owner may make application to the city for amendment of the zoning map as it relates to his property. Amendments to the zoning map may also be initiated by sponsorship of three members of city council and shall be considered under the procedures of subsection 5.3 as it relates to applications for map amendments.
- 5.13 *Comprehensive zoning map amendment.* Amendment to the zoning map as a result of a new, revised, or amended comprehensive plan, or other formal plan or study shall be considered as a comprehensive zoning map amendment and shall be initiated by the planning office.

5.2 *Procedure for zoning text amendments in accordance with subsection 5.11.*

- 5.21 *Public hearing and notice.* An amendment to the ordinance text shall be subject to public hearing before the planning commission and city council prior to adoption. Such hearing shall be advertised in a newspaper of general circulation at least 15 days prior to the planning commission hearing. Such notices shall state the date, time and place of the planning commission and city council hearings and a brief description of the proposed zoning text amendment, and specify that documents are available in the planning office for review.
- 5.22 *City planner report.* For each proposed zoning text amendment, the city planner shall issue a report to the planning commission and city council, including comments from other reviewing agencies, that evaluates the following factors:
 - (A) Whether such change is consistent with the aims and principles embodied in the ordinance as to the particular zones concerned; and
 - (B) Whether such proposed amendment is consistent with the aims of the comprehensive plan of the city.
- 5.23 *Report of the planning commission.* Regarding each proposed amendment to the ordinance text, the planning commission shall provide a report to the city council stating a recommended action with regards to the proposed amendment, along with the commission's evaluation of the following factors:
 - (A) Whether such change is consistent with the aims and principles embodied in the ordinance as to the particular zones concerned; and

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- (B) Whether such proposed amendment is consistent with the aims of the comprehensive plan of the city.

5.3 *Application procedure for zoning map amendments in accordance with subsection 5.12.*

5.31 *Preapplication meeting.* Prior to the submission of a zoning map amendment application, the applicant or his representative shall meet in person with the city planner or his designee to discuss the rezoning request. The purpose of this meeting shall be to discuss proposed uses or developments and to review the process and submission requirements.

5.32 *Application.* Application for a zoning map amendment shall be submitted to the city planner, on forms approved by the planning commission, along with a fee as provided for in Appendix F—Fees and Fines, and copies of a site map as described below.

- (A) *Submission requirements accompanying applications for amendments to the zoning map.* The applicant shall cause a site map to be prepared by a civil engineer, surveyor, land planner, or architect. The applicant shall submit copies of the site map to the city planner. The elements to be included on the site map are listed below:

- (1) Scale and dimensions. The map shall be at least 8.5 by 11 inches and at a scale of ten, 20, 30 or 40 feet to the inch, except that if the property has a maximum dimension over 900 feet, a scale of 50 feet to the inch may be used.
- (2) Legal data.
 - (a) Tax parcel identification number.
 - (b) Name and address of the owner of record.
 - (c) Name and address of the equitable owner, if any.
 - (d) Name and address of the person, firm or organization preparing the map.
 - (e) Date, north point and written and graphic scale.
 - (f) Sufficient description of information to precisely define the boundaries of the property and that portion of the property for which a rezoning is requested; and total acreage for which a rezoning is requested. All distances shall be in feet and hundredths of a foot. All angles shall be given to the nearest second or closer. The error of closure shall not exceed one in 10,000.
 - (g) The locations, names and existing widths of adjacent street rights-of-way and curblines.
 - (h) Location, width and purpose of all existing and proposed easements, reservations and areas dedicated to public use within or adjoining the property.
 - (i) Existing and proposed zoning.
 - (j) Any existing development on the property, including buildings, fences and landscape screening.
 - (k) Full and complete information requested by the city planner in accordance with the development information requirements set forth in section 4.

5.33 *Setting of hearings and referral to planning commission.* For any application to amend the zoning map, city council shall refer the proposed amendment to the planning commission and set dates for the public hearings to be held before the planning commission and city council.

5.34 *Advertisement of public hearing.* Following referral of a zoning map amendment application to planning commission by city council, the applicant shall advertise the public hearing as follows:

- (A) The applicant shall notify by mail all property owners within a distance of 200 feet of the extreme limits of the subject property of the public hearing dates, times and locations.
- (B) The applicant shall advertise the public hearings in a newspaper of general circulation at least fifteen (15) days prior to the planning commission hearing. Such notices shall state the date, time and place of the planning commission and city council hearings and a brief description of the proposed zoning map amendment, and specify that documents are available in the planning office for review.
- (C) The applicant shall also post a notice outlining the date, time, place, and nature of the hearings in a conspicuous location on the property. Such notice shall be designed in accordance with standards set forth by the planning commission and city council.
- (D) The applicant shall provide the planning office with a copy of the notice, verification of newspaper publication, a date-stamped photo of the property posting, and post office mail receipts indicating the date of mailing for all letters on or before the planning commission meeting date.

5.35 *City planner report.* For each application for a zoning map amendment, the city planner shall transmit a report to the planning commission and city council, including comments from other reviewing agencies that evaluate the following factors:

- (A) Whether the uses permitted by the proposed change would be compatible with the existing uses and zones in the area concerned;
- (B) Whether adequate public services and infrastructure exist or can be created or expanded to serve the needs of any additional demand as a result of such change; and
- (C) Whether the proposed change is in accordance with the city's current comprehensive plan.

5.36 *Report of the planning commission.* Regarding each application for a zoning map amendment, the planning commission shall provide a report to the city council stating a recommended action with regards to the proposed amendment, along with the commission's evaluation of the following factors:

- (A) Whether the uses permitted by the proposed change would be compatible with the existing uses and zones in the area concerned;
- (B) Whether adequate public services and infrastructure exist or can be created or expanded to serve the needs of any additional demand as a result of such change; and
- (C) Whether the proposed change is in accordance with the city's current comprehensive plan.

5.37 *Amendment of zoning map.* Following action by city council with regards to an application to amend the zoning map, the planning office shall update the zoning map to reflect the action of city council.

5.38 *Notice of decision.* The city clerk shall send the applicant a letter notifying the applicant of the city council's action regarding the application for a zoning map amendment.

5.4 *Procedure for comprehensive zoning map amendment in accordance with subsection 5.13.*

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- 5.41 *Public hearing and notice.* A comprehensive zoning map amendment shall be subject to public hearing before the planning commission and city council prior to adoption. The planning office shall advertise the public hearings as follows:
- (A) The planning office shall advertise the public hearing in two newspapers of general circulation at least 15 days prior to the planning commission hearing.
 - (B) The planning office shall notify all affected property owners by mail at least 15 days prior to the planning commission hearing, informing them of the proposed zoning map amendment as it relates to their property.
 - (C) Such notices shall state the date, time and place of the planning commission and city council hearings and a brief description of the proposed zoning map amendment, and specify that documents are available in the planning office for review.
- 5.42 *City planner report.* For any comprehensive zoning map amendment, the city planner shall issue a report to the planning commission and city council, including comments from other reviewing agencies, that identifies:
- (A) The reasons for the comprehensive zoning map amendment;
 - (B) All properties where a change in zone is proposed; and
 - (C) How the proposed changes to the zoning map support the city's current comprehensive plan.
- 5.43 *Report of the planning commission.* Regarding each application for a comprehensive zoning map amendment, the planning commission shall provide a report to the city council stating a recommended action with regards to the proposed amendment, along with the commission's evaluation of the following factors:
- (A) Whether the uses permitted by the proposed change would be compatible with the existing uses and zones in the area concerned;
 - (B) Whether adequate public services and infrastructure exist or can be created or expanded to serve the needs of any additional demand as a result of such change; and
 - (C) Whether the proposed change is in accordance with the city's current comprehensive plan.
- 5.44 *Adoption of comprehensive zoning map amendment.* Upon adoption of the comprehensive zoning map amendment by city council, the zoning of properties shall be as reflected in the adopted map.
- 5.45 *Notice of decision.* The city shall notify all affected property owners in writing with regards to any amendments to the zoning map that affect their properties.
- 5.5 *Amendment protests.* In the case of a protest against any amendment, such amendment shall not become effective, except in accordance with the provisions of section 305 of chapter 3 of title 22, Municipalities, of the Delaware Code Annotated (22 Del. C. § 305).
- 5.6 *Zoning map amendment approvals.* In all cases where the city council shall approve an amendment to the zoning map, the said council shall find that, for reasons fully set forth in the said findings, such amendment is in conformity with the comprehensive plan for the city.
- 5.61 *Reconsideration, one-year limitation.*
- (A) Whenever an amendment has been denied by the city council, such amendment, or one substantially similar, shall not be reconsidered sooner than one year from the date of the prior denial, except as provided in subsection (B) hereof.

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- (B) Notwithstanding the provisions of subsection (A) hereof, the planning commission may request the council to reconsider an application within the one-year period from the denial of the same if the land use in the area has changed to such a degree that failure to do so would prevent proper planning and development of the area in question.

5.7 *Closed zones.* Where the city finds that new development in a certain zone would be inconsistent with the purposes of this article, but that elimination of or substantial changes to the zone would create a hardship for many owners of existing buildings and land in that zone, the city may declare the zone closed. The city council shall not accept or approve amendments to the zoning map which would place land in a closed zone. Closed zones include:

- (A) R-7;
- (B) RG-4;
- (C) RG-O, except in the downtown redevelopment target area as described in appendix C of the City of Dover Code of Ordinances.

(Ord. No. 2011-14, 8-8-2011)