

§ 10. CHANGES AND AMENDMENTS TO ZONING ORDINANCE AND DISTRICTS, AND ADMINISTRATIVE PROCEDURES.

10.1 DECLARATION OF POLICY AND REVIEW CRITERIA:

The City declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

- A. To correct any error in the regulations or map;
- B. To recognize changed or changing conditions or circumstances in a particular locality;
- C. To recognize changes in technology, the style of living, or manner of conducting business;
- D. To change the property to uses in accordance with the approved Comprehensive Plan; or
- E. To implement policies within the Comprehensive Plan.

In making a determination regarding a requested zoning change, the Planning and Zoning Commission and City Council shall consider the following factors:

- F. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the City as a whole;
- G. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area, and shall note the findings;
- H. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development;
- I. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change;
- J. How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved; and
- K. Any other factors which will substantially affect the public health, safety, morals, or general welfare.

10.2 AUTHORITY TO AMEND ORDINANCE:

The City Council may from time to time, after receiving a final report thereon by the Planning and Zoning Commission and after public hearings required by law,

amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning District Map. Any Ordinance regulations or zoning district boundary amendment may be ordered for consideration by the City Council, be initiated by the Planning and Zoning Commission, or be requested by the owner of real property, or the authorized representative of an owner of real property.

Consideration for a change in any district boundary line or special zoning regulation may be initiated only by the property owner or his/her authorized agent (proof of such authorization must be submitted with the zoning application, per Section 10.3), or by the Planning and Zoning Commission or City Council on its own motion when it finds that public benefit will be derived from consideration of such matter. In the event the ownership stated on an application and that shown in City records are different, the applicant shall submit proof of ownership and/or verification that he/she is acting as an authorized agent for the property owner.

No person who owes delinquent taxes, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the City of Hutchins, and which are directly attributable to a piece of property requested for zoning shall be allowed to submit a zoning request until the taxes, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the City has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence/proof that the taxes have been paid.

10.3 APPLICATION:

Each application for zoning or for an amendment or change to the existing provisions of this Zoning Ordinance shall be made in writing on an application form available at the City, filed with the City, and shall be accompanied by payment of the appropriate fee as established within Appendix A-6 of this Ordinance. The application shall also be accompanied by additional information/materials (i.e., plans, maps, exhibits, legal description of property, information about proposed uses, etc.) as deemed necessary by the City Administrator, or his/her designee, in order to ensure that the request is understood.

10.4 PUBLIC HEARING AND NOTICE:

- A. For zoning/rezoning requests involving real property, the Planning and Zoning Commission shall hold at least one public hearing on each zoning application, as per applicable State law (Texas Local Government Code Chapter 211, as may be amended). For proposed changes to zoning district boundaries (including rezoning requests), written notice of the public hearing to occur before the Planning and Zoning Commission shall be sent to all owners of real property, as indicated by the most recently approved City tax roll, that is located within the area of the zoning/rezoning application and within two hundred feet (200') of the property for which zoning/rezoning is requested, said written notice to be sent not less than ten (10) days before such hearing is held. Such notice may be served by using the last known address as listed on

the most recently approved tax roll and depositing the notice, first-class postage paid, in the United States mail.

- B. For requests involving proposed changes to the text of the Zoning Ordinance, notice of the Planning and Zoning Commission hearing shall be accomplished by publishing the purpose, time and place of the public hearing in the official newspaper of the City not less than fifteen (15) days prior to the date of the public hearing. Changes in the Ordinance text which do not change zoning district boundaries (i.e., which do not involve specific real property) do not require written notification to individual property owners.
- C. The City may, at its option, establish additional rules and procedures for public notification of proposed zoning changes and/or development proposals (e.g., site plans, plats, etc.) which may include, but not be limited to, the posting of a sign(s) on any property that is proposed for a zoning change and/or development by the applicant or its agent(s). Knowledge of and adherence to such rules and procedures, if so established by the City, shall be the responsibility of the applicant and shall be required as part of a zoning change and/or development application.

10.5 FAILURE TO APPEAR:

Failure of the applicant or his/her representative to appear before the Planning and Zoning Commission or City Council for more than one hearing without an approved delay by the City Administrator, or his/her designee, shall constitute sufficient grounds for the Planning and Zoning Commission or the City Council to table or deny the application unless the City is notified in writing by the applicant at least seventy-two (72) hours prior to the hearing.

10.6 PLANNING AND ZONING COMMISSION CONSIDERATION AND RECOMMENDATION:

- A. The Planning and Zoning Commission shall function in accordance with Section 8 of this Ordinance and with applicable provisions in the City's Code of Ordinances.
- B. The Commission shall hold a public hearing on a zoning/rezoning request (including a proposed text amendment to the Zoning Ordinance). After all public input has been received and the public hearing closed, the Commission shall make its recommendations on the proposed zoning request stating its findings, its overall evaluation of the request, and its assessment regarding how the request relates to the City's Comprehensive Plan. The Planning and Zoning Commission may, on its own motion or at the applicant's request, defer its decision/recommendations (i.e., table the request) for not more than one hundred and twenty (120) days from the time the public hearing was first opened, or until it has had an opportunity to consider other information or proposed modifications to the request which may have a direct bearing thereon. If the Commission elects to table the request, such tabling shall specifically state the time period of the tabling (i.e., cite the meeting date

whereon the request will reappear on the Commission’s agenda).

- C. When the Commission is ready to act upon the zoning request, it may recommend approval of the request as it was submitted by the applicant, approval of the request subject to certain conditions (i.e., as in the case of a Planned Development district or a Specific Use Permit), or disapproval of the request. If the Commission’s recommendation is to approve the request (either as submitted or with additional conditions), then the request will be automatically forwarded to the City Council for a second public hearing thereon (see Section 10.7).
- D. If the Planning and Zoning Commission recommends denial of the zoning change request, it shall provide reasons to the applicant for the denial, if so requested by the applicant at the time of the public hearing on the zoning request. The Planning and Zoning Chairperson shall inform the applicant of the right to receive reasons for the denial.

10.7 CITY COUNCIL CONSIDERATION:

- A. Applications Forwarded from the Planning and Zoning Commission to City Council -Every application or proposal which is recommended for approval (or approval with conditions) by the Planning and Zoning Commission shall be automatically forwarded (along with the Commission’s recommendation) to the City Council for setting and holding of public hearing thereon. The City Council may then approve the request, approve it with conditions, or disapprove it (i.e., against the Commission’s recommendation).

An application which is recommended by the Planning and Zoning Commission for denial shall not be forwarded to City Council unless the applicant files a written appeal with the City Secretary within ten (10) days after the Commission’s decision. Said appeal will, in that instance, be forwarded to City Council along with the Commission’s reasons for denial of the request. The appeal shall be scheduled for the next possible City Council agenda, following appropriate public notification as prescribed in Section 10 (i.e., publication in newspaper, notices sent to property owners within 200 feet, etc.). City Council approval of a request that has been recommended for denial by the Planning and Zoning Commission will require a three-fourths (3/4) majority vote from the full City Council. No zoning change, however, shall become effective until after City Council adoption of an ordinance for same and its publication as required by law.

- B. City Council Action on Zoning/Rezoning or Text Amendment Requests -After a public hearing is held before City Council regarding the zoning application, the City Council may approve the request in whole or in part, deny the request in whole or in part, table the application to a future meeting, or it may refer the application back to the Planning and Zoning Commission for further study.
 - 1. If the City Council approves the request, then Subsection 10.7.E would

apply.

2. If the City Council denies the request, then no other zoning application may be filed for the same or a similar request for any part of the subject tract of land (or for that portion of the Zoning Ordinance, in the case of a text amendment request submitted by a property owner or citizen) for a waiting period of one hundred and twenty (120) days following the denial. In the instance that the request was initiated by the City and involved a proposed amendment to the text of the Zoning Ordinance, then there is no waiting period before the request can be reconsidered.
 - a. The City Council may, at its option, waive the 120-day waiting period if, after due consideration of the matter at a scheduled and posted meeting, it is determined that denial of the request was based upon erroneous or omitted information, or if substantial new information pertaining to the request is discovered.
- C. City Council Hearing and Notice for Zoning Changes -Notice of the City Council public hearing for zoning/rezoning and for Zoning Ordinance text amendment requests shall be given by publishing the purpose, time and place of such hearing in the official newspaper of the City not less than fifteen (15) days prior to the date of the public hearing.
- D. Three-Fourths Vote -A favorable vote of three-fourths (3/4) of all members of the City Council shall be required to approve any change in zoning when written objections are received from twenty percent (20%) of the area of the adjacent landowners which comply with the provisions of Section 211.006 of the Texas Local Government Code (commonly referred to as the “twenty percent [20%] rule”). If a protest against such proposed amendment, supplement or change has been filed with the City Secretary, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the area of the lots included in such a proposed change or those immediately adjacent to the area thereof extending two hundred feet (200') therefrom or of those directly opposite thereto extending two hundred feet (200') from the street frontage of such opposite lots, such amendments shall not become effective except by a three-fourths (3/4) vote of the full City Council.
- E. Final Approval and Ordinance Adoption -Upon approval of the zoning request by the City Council, the applicant shall submit all related material with revisions, if necessary, to the City for the preparation of the amending ordinance. A metes and bounds description of all property, a survey (i.e., drawing) exhibit, and other appropriate exhibits that are determined necessary by the City Administrator, or his/her designee, must be submitted with the zoning change request application. The amending ordinance will not be prepared or formally adopted (i.e., effective) by the City Council until a correct description and all required exhibits have been submitted to the City Administrator, or his/her designee. No zoning change shall become effective until after City Council adoption of an ordinance for same and its publication

as required by law.

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