

*DIVISION 4. CHANGES IN REGULATIONS OR ZONING DISTRICT
BOUNDARIES*

Section 107-515. Applicability.

(a) Applicability.

This Division governs the procedures for the adoption of any zoning change as defined in this Division.

(b) Zoning changes shall be processed in accordance with this Article and Chapter 211, Texas Local Government Code, as amended.

Sec. 107-516. Changes initiated by city council or commission.

The city council or commission may, from time to time, on its own motion, initiate (without payment of application or petition fee) amendments, supplements, changes, or modifications to the city's zoning regulations, boundaries or classifications. Any such proposed zoning change will be subject to the hearings and procedures prescribed by this division.

Sec. 107-517. Definitions.

For purposes of this Division, the following terms shall have the meanings set forth below:

(a) "Comprehensive Zoning Change" means a proposal to:

(1) amend existing zoning regulations in a manner that:

a) has the effect of permitting a greater amount or intensity of residential development than was allowed under the prior regulation; and

b) applies uniformly to each parcel within one or more zoning districts; or

(2) adopt a new zoning code or zoning map that will apply to the entire municipality; or

(3) establish a zoning overlay district that:

a) has the effect of permitting a greater amount or intensity of residential development than is allowed without the overlay district; and

b) includes property located along a major roadway, highway, or transit corridor.

(b) "Non-Comprehensive Zoning Change" means any proposed zoning change that does not meet the criteria for a Comprehensive Zoning Change.

(c) "Zoning change" means the adoption of any change to an existing zoning regulation, zoning map or zoning district boundary by amendment, repeal or other change, the adoption of a new zoning classification, zoning code or zoning map, or other change of a zoning regulation or boundary.

Commented [A1]: Definitions Added Texas Local Government Code Section 211.0011

Sec. 107-5187. Applications and petitions.

(a) Any property owner (or such property owner's authorized agent) applying to or petitioning the city for a zoning change in zoning boundaries or classifications applicable to such applicant's property shall do so upon forms provided by the city. All petitions or applications for for changes in a zoning change boundaries or classifications shall be filed with the city together with all applicable fees.

(b) Each such petition or application shall:

(1) Contain the petitioner's/applicant's name, address and interest in the petition/application; and

(2) Include a survey prepared by a registered surveyor in the state and a properly recorded subdivision plat which accurately shows the location and boundaries of the property for which the change is requested, the current zoning classification of the property, and the names and addresses of all owners of property lying within 200 feet of the subject property (as reflected on the current city tax roll).

(c) The commission may make nonmandatory requests for supplemental information from the applicant or petitioner with regard to a zoning change request including, but not limited to, a preliminary plat plan of the anticipated use and improvement of the property.

(d) A zoning change application includes a properly recorded subdivision plat of the applicable property which is the subject of such application. In lieu thereof, a property owner may simultaneously process a subdivision application to properly subdivide the property provided that the zoning change will not be approved until a subdivision plat of the property has been approved. A city council or commission initiated change does not require that the property be subject to a properly recorded subdivision plat nor does it require a survey of such property.

Sec. 107-519. Public hearings.

(a) Planning and Zoning Commission.

The Planning and Zoning Commission shall conduct at least one public hearing on each proposed zoning change, except where state law permits otherwise. The City Administrator shall establish the date, time, and place of the public hearing.

(b) City Council.

The City Council shall conduct at least one public hearing on each proposed zoning change before adopting any change.

(c) Joint public hearing.

The city council may, at its discretion at a properly noticed public meeting, determine that a public hearing shall be held before both the planning and zoning commission and the city council. If such a determination is made, the planning and zoning commission and the city council may conduct a joint public hearing and take action on the application in the following manner:

1. The city council on its own motion shall establish the date of the joint public hearing.
2. The city council shall cause notice of the joint public hearing to be provided in the same manner as required by Section 107-520.
3. The planning and zoning commission and the city council shall be convened for the hearing and for any action to be taken on the petition or application.
4. The planning and zoning commission and the city council may take action on the application at the same meeting; however, the city council shall not take action until the report and recommendation of the planning and zoning commission has been received.

(d) Hearing Administration.

The City Administrator or designee shall ensure compliance with all applicable notice requirements.

Sec. 107-52018. Hearing and a Notice of Public Hearing.

(a) Zoning changes other than Comprehensive Zoning Changes.

1. Notice of hearing shall be provided as stipulated in this section and in accordance with Texas Local Government Code.

Commented [A2]: NOTE: State law provides different public hearing notice requirements for City Council and the Planning and Zoning Commission. The City's notice requirements are applied equally to both bodies. For example, state law requires a public hearing notice in the newspaper for the City Council but is not required for public hearing for the P&Z. Section (a)(2) requires notice in the paper for both bodies. This is consistent with the current requirements.

2. **Newspaper and Internet Notice.** Notice of each hearing shall be published in an official newspaper of general circulation and posted as required by law not later than 16 (sixteen) days before the hearing date.

3. **Mailed Notice.** Not less than 20 (Twenty) days before the hearing, or as otherwise required by law, written notice of the time and place of the Commission and City Council hearings shall be sent by mail to the applicant and to owners of real property within 250 feet of the property for which the change is proposed, as their ownership appears on the last approved tax roll. If the application for a change in zoning classification requests a change to a zoning district other than a residential district, the notice must be mailed, not less than 20 (twenty) days prior to the hearing, to all owners of property (as such ownership is shown on the current city tax roll) within the city. The notice may be served by depositing it in the U.S. mail with the proper address and postage.

4. **Electronic Notice.** Not less than 20 (twenty) days before the hearing, or as otherwise required by law, notice may be delivered electronically, by email or text, if the recipient has elected to receive the notice electronically and the City has established an online portal on the City's website through which a recipient may: (1) elect to receive notice electronically and (2) manage recipient preferences for receiving notice electronically. The City shall request that the recipient of notice delivered electronically acknowledges the receipt of the notice and must provide notice as required in Subsection (c) if the recipient does not acknowledge receipt of the notice delivered electronically.

5. **Contents of notice.** All notices shall include the purpose, date, time, and place of the hearing and a general description of the proposed zoning change sufficient to inform the public. The notice shall also describe any variances the applicant has requested and state the location and times at which the zoning change application and supporting documents are available for public inspection. The time and place of the public hearing to be held before the city council shall also be included if known at the time the notice is given and, if it is not known at such time, a telephone number shall be provided where information on the hearing before the city council will be available at a later date.

(b) Notice of public hearing for comprehensive zoning changes.

(1) For a proposed comprehensive zoning change, the notice requirements are as follows:

a. Not later than 16 (sixteen) days before the hearing date before the Commission or City Council, notice of the time and place of the hearing must be:

(i) published in an official newspaper or a newspaper of general circulation in the municipality; and

(ii) if the municipality maintains an Internet website, published on the municipality's Internet website.

(2) In addition to the notice required by Subdivision (1), if a proposed comprehensive zoning change would cause a current conforming use of property to become a nonconforming use, the notice described in Subsection (c) must also be provided in the manner and within the time required by that subsection.

(c) Notice of public hearing for Creation of Non-Conforming Use.

This subsection applies to any proposed zoning change, whether a Comprehensive Zoning Change or a Non-Comprehensive Zoning Change, under which a current conforming use of property would become a nonconforming use.

(1) Written notice of each public hearing, before the commission or City Council, regarding any proposed zoning change under which a current conforming use of a property would become a nonconforming use if the regulation or boundary is adopted or changed. The notice must:

(i) be mailed by United States mail or delivered electronically to each owner of real or business personal property where the proposed nonconforming use is located as indicated by the

Commented [A3]: Authority to provided that electronic notice codified in Texas Local Government Code Section 211.020.

Commented [A4]: State law only requires 10 days. However, Rollingwood requires 20 days notice for written notice. As such this has been revised to align with the required written notice timeline for the City of Rollingwood. Not doing so creates an unworkable notice scheme based on the requirements of Texas Local government Code Section 211.020

Commented [A5]: This section complies with the new requirements Texas Local Government Code Section 211.063. However, as previously noted, Rollingwood imposes stricter notice requirements than state law.

Commented [A6]: Is this a title or an incomplete sentence?

most recently approved municipal tax roll and each occupant of the property not later than the 10th day before the hearing date;

(ii) contain the time and place of the hearing; and

(iii) include the following text in bold 14-point type or larger:

“THE [MUNICIPALITY NAME] IS HOLDING A HEARING THAT WILL DETERMINE WHETHER YOU MAY LOSE THE RIGHT TO CONTINUE USING YOUR PROPERTY FOR ITS CURRENT USE. PLEASE READ THIS NOTICE CAREFULLY.”

(d) Notice of public hearing to School District

Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification affecting residential or multifamily zoning shall be sent to each school district in which the property for which the change in classification is proposed is located. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail or by electronic delivery.

(e) Recordkeeping.

The City shall maintain a record of all notices and all affidavits of publication provided under this Article, including the manner and date of notice, which shall be made part of the official zoning file.

~~(a) The commission will hold a public hearing on all proposed changes to zoning regulations and classifications.~~

~~(b) Notice requirements.~~

~~(1) Not less than 16 days prior to the city council public hearing, notice of the date, time and location thereof will be published in the official newspaper of the city or in a newspaper of general circulation in the city.~~

~~(2) In the case of a proposed change in zoning classification, written notice of a public hearing will be mailed, not less than 20 days prior to each required public hearing of the planning and zoning commission and city council, to all owners of property (as such ownership is shown on the current city tax roll) lying within 250 feet of the property that is the subject of the proposed zoning classification change. If the application for a change in zoning classification requests a change to a zoning district other than a residential district, the notice must be mailed, not less than 20 days prior to the hearing, to all owners of property (as such ownership is shown on the current city tax roll) within the city. The notice may be served by depositing it in the U.S. mail with the proper address and postage.~~

~~(3) Such notice shall state the purpose, date, time, and place of the hearing, together with a brief description of the proposed development, including its nature, scope, and location. The notice shall also describe any variances the applicant has requested and state the location and times at which the zoning classification change application and supporting documents are available for public inspection. The time and place of the public hearing to be held before the city council shall also be included if known at the time the notice is given and, if it is not known at such time, a telephone number shall be provided where information on the hearing before the city council will be available at a later date.~~

Commented [A7]: NOTE: This is in compliance with Texas Local Government Code Section 211.007 (c-1) and (c-2). However as noted elsewhere the City of Rollingwood imposes stricter notice requirements.

Commented [A8]: Moved to new section 107-519

Commented [A9]: Moved to section (a) in this newly numbered and named section.

~~(c) *Public hearing required.* Whenever a public hearing is required, the city administrator or his/her designee shall establish the date, time and place of the public hearing and shall cause any notice required to be prepared and made accordingly.~~

~~(d) *Joint public hearing.* The city council may, at its discretion at a properly noticed public meeting, determine that a public hearing shall be held before both the planning and zoning commission and the city council. If such a determination is made, the planning and zoning commission and the city council may conduct a joint public hearing and take action on the application in the following manner:~~

~~(1) The city council on its own motion shall establish the date of the joint public hearing.~~

~~(2) The city council shall cause notice of the joint public hearing to be provided as required.~~

~~(3) The planning and zoning commission and the city council shall be convened for the hearing and for any action to be taken on the petition or application.~~

~~(4) The planning and zoning commission and the city council may take action on the application at the same meeting; however, the city council shall not take action until the report and recommendation of the planning and zoning commission has been received.~~

Commented [A10]: Moved to new section 107-519.

Sec. 107-5219. Commission recommendation.

- (a) After the public hearing, the commission will make its recommendation regarding the proposed zoning change, the change in zoning regulations or boundaries.
- (b) The recommendation made by the commission will be submitted to the city council, in writing, and the applicant/petitioner will be notified of the action of the commission.
- (c) The city will establish and maintain a separate file for each petition/application received, and will record the names and addresses of all persons to whom notices were mailed, including the date of mailing and the persons by whom notices were mailed. All records and files herein provided will be made part of the official files of the city.

Sec. 107-5220. Procedure before the city council.

- (a) After receiving the recommendation of the commission, the city council will, at the earliest practicable time, hold a public hearing on the application/petition, at which parties in interest and citizens will have an opportunity to be heard. Notice of the hearing will be given in the manner required under section 107-52048(b).
- (b) If the commission recommends approval of the zoning change in zoning regulations or boundaries requested in the application/petition, the city council may, except as otherwise provided by this Division, by majority vote, either accept, reject or take other action on the application/petition.

~~(c) If the commission recommends disapproval of the change in zoning regulations or boundaries requested in the application/petition, or if there is filed with the city a written protest against such change, signed by the owners of 20 percent or more, either of the area of the lots or land included in such proposed change, or of the lots or land immediately adjoining the same and extended 200 feet therefrom, such change will not be approved except by the favorable vote of at least four-fifths of the whole number of members of the city council.~~

- ~~(c)~~ The city council may approve, at such time as a zoning change requested by a property owner (or the property owner's authorized agent) is granted, a development agreement between the city and the applicant containing such assurances as the city council may determine are reasonably necessary regarding the development of the property, including, but not limited to, development of the property substantially in accordance with a preliminary plat plan, in form reasonably satisfactory to the city council (the "development agreement"). The city council may require that the development agreement be recorded in the real property records of the county and constitute covenants running with the land. Thereafter, any requested modifications, amendments or variances to the development agreement must be considered by and receive the prior approval of the city council. All representations, whether written or oral, made by an applicant or his agent in connection with a zoning change request at any of the public hearings held in connection therewith will be binding upon such

Commented [A11]: Protest procedures Texas Local Government Code Section 211.0061. The new protest procedures have been added as a new section below, Section 107.523

applicant and the property which is subject to the zoning classification change. It will be unlawful for the applicant to vary or breach any of such representations without first obtaining the prior written approval of the city council.

(e) Any zoning change ~~in zoning regulations or boundaries~~ must be enacted in the form of an ordinance amending this article.

(f) If a zoning change application filed by or on behalf of a property owner with regard to such property is denied by the city council, then a zoning application for such property requesting a zoning change to the same zoning ~~change classification~~ previously requested may not be filed with the city for a period of six months from the date of the prior denial by city council.

Section 107-523. Protests of non-comprehensive zoning changes.

(a) A protest of a change to a zoning regulation or district boundary that is not a comprehensive zoning change must be written and signed by the owners of:

(1) at least 20 percent of the area of the lots or land covered by the proposed change;

(2) except as provided by Subdivision (3), at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area; or

(3) at least 60 percent of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area if the proposed change has the effect of allowing more residential development than the existing zoning regulation or district boundary and does not have the effect of allowing additional commercial or industrial uses unless the additional use is limited to the first floor of any residential development and does not exceed 35 percent of the overall development.

(b) In computing the percentage of land area under Subsection (a):

(1) the area of streets and alleys shall be included; and

(2) the land area is not calculated individually for each tract of land subject to a proposed change in a zoning regulation or district boundary but in the aggregate for all tracts of land subject to the change.

(c) If a proposed change to a zoning regulation or district boundary is protested in accordance with Subsection (a), the proposed change must receive, to take effect, the affirmative vote of at least:

(1) three-fourths of all members of the governing body for a protest described by Subsection (a)(1) or (2); or

(2) a majority of all members of the governing body for a protest described by Subsection (a)(3).

Sec. 107-524. Suspending issuance of permits and approval of site plans pending amendments.

No application for site plan approval will be accepted for filing nor processed, and no building, site clearance, or grading permit will be issued for any work, other than in connection with a single-family residential use, for a period of no more than 90 days on land which is being considered for a change in zoning classification or is subject to an amendment to the zoning ordinance being considered by the city council. Such 90-day period will begin on the date the proposed zoning classification change or proposed zoning ordinance amendment is published for public hearing by the commission. Properties with respect to which building permits or final site plans have been approved prior to such date are excepted from this restriction. The time period for such restriction will expire upon the earlier to occur of expiration of such 90-day period or final determination of such zoning change or amendment by the city council. The foregoing notwithstanding, a site plan may be approved by the city council (and a building permit may be issued) simultaneously with the approval of a zoning change classification or an amendment to the zoning ordinance by the city council.

Commented [A12]: Added Texas Local Government Code Section 211.061.