

Proposed amendments to Division 4 of the Zoning Code to address recent legislation

1. Changes in notice requirements for required public hearings:

For all zoning changes: Notice must be given at least 16 days prior to the public hearing, for any public hearing before the Planning and Zoning commission or city council including a joint public hearing, by publication in a local newspaper and by posting on the city's website.

Individual notice by mail of public hearings for zoning changes under which a current conforming use may become a non-conforming use: Notice must also be given by mail to each property owner and each occupant of the property not later than 10 days before the public hearing, and must contain this language in 14-point bold type or larger: "THE [NAME OF MUNICIPALITY] 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."

Notice requirements by email or text: A city may elect to provide notice of a public hearing by email or text, but if so, the city must require the recipient to acknowledge receipt of the notice, and if the acknowledgment is not received must deliver notice as otherwise required by publication, posting on the website and individual mailed notice when a nonconforming use may be created.

Notice to school districts: Notice of P&Z public hearings must be given by mail or electronic delivery to each school district for any zoning change "affecting residential or multifamily zoning" of property within the school district.

2. Adoption and protest of zoning changes:

The Legislature amended the Local Government Code to classify all local zoning processes into two categories: "comprehensive zoning change[s]" and "non-comprehensive zoning change[s]".

A "comprehensive zoning change" is (1) any change that allows more residential development than the previous regulation and applies uniformly to each parcel in a zoning district, (2) adopts a new zoning code or zoning map, or (3) adopts a zoning overlay district allowing more residential development and is located along a major roadway, highway, or transit corridor.

A "non-comprehensive zoning change" is any change that is not a "comprehensive zoning change"

The Legislature then amended the processes for city council approval of zoning changes not receiving the affirmative vote of the Planning and Zoning Commission, established a protest process only for non-comprehensive zoning changes, and adopted a presumption of validity for changes allowing increases in residential development.

3/4ths rule: The Legislature repealed the requirement that zoning changes not receiving the recommendation of the Planning and Zoning Commission receive a 3/4ths majority vote of the City Council for approval.

Protest of non-comprehensive zoning change:

The protest must be signed by:

- (1) “20% of the area of the lots or land” covered by the change,
- (2) except as proved by (3), at least 20% of the area of the lots or land covered by the change and extending 200 feet from that area, of
- (3) if the proposed change allows more residential development and does not allow additional commercial or industrial uses other than on the first floor of a residential development not to exceed 35% of the development, then it must be signed by 60% of the area covered by the change and within 200 feet from the area.

Additionally, to be granted, the protest must receive:

- (1) 3/4ths vote of the council for a protest as described in (1) or (2) above, or
- (2) a majority vote of the council for a protest described by (3) above.

Presumption of validity of zoning changes allowing more residential development: The Legislature also adopted a presumption of validity for any zoning change that “has the effect of allowing more residential development than the previous regulation”. If no action to annul or invalidate the change is filed within 60 days after its effective date, the change is “conclusively presumed valid and to have occurred in accordance with all applicable statutes and ordinances.”

