

CHAPTER 5

AMENDMENTS AND RECLASSIFICATION

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9-5-1: AUTHORITY

The Land Use Code may be amended whenever the city council deems that amendment is required for public convenience, necessity or general welfare. The city council, subject to procedures provided by law, may amend, supplement, change or repeal the regulations, restrictions, and boundaries or classifications of property. (Ord. 38, 11-5-1984; Ord. 23, 5-1981; Ord. 22, 5-1981; Ord. 2008-4)

9-5-2: INITIATION OF AMENDMENTS

- A. Amendments to the comprehensive plan or this Title may be initiated in one of the following ways:
 - 1. The planning and zoning commission makes a recommendation to the city council;
 - 2. The city council adopts a motion by a council member to amend the comprehensive plan or this Title; and
 - 3. A property owner or a person who has an existing interest in property within the city or area of city impact requests a change to the comprehensive plan or this Title by application to the city clerk.
- B. Requests or applications for amendments to the comprehensive plan or this Title received by the city clerk shall be submitted to the planning and zoning commission for review.
- C. Applications shall contain the following information:
 - 1. Name, address, and phone number of applicant;
 - 2. Proposed amendment;
 - 3. Present land use and zoning district;
 - 4. Proposed land use and zoning district;
 - 5. A list of all property owners and their mailing addresses who are within three hundred feet (300') of the external boundaries of the land being proposed for land use reclassification;

6. A statement of why the proposed amendment is requested, how the proposed amendment relates to the comprehensive plan and how the proposed amendment fits the criteria of this Title; and
7. Further justification if the rezone request is for small and/or single ownership tracts.

9-5-3: PLANNING AND ZONING EVALUATION

The planning and zoning commission, within fifteen (15) days of receiving a request or application, shall evaluate the request or application and determine the extent and nature of the amendment requested.

9-5-4: PLANNING AND ZONING NOTICE AND PUBLIC HEARING

- A. Public Hearing Required: The planning and zoning commission, prior to recommending an amendment, reclassification, supplement, or repeal of a comprehensive plan provision or land use regulation, shall conduct at least one public hearing in which interested persons have an opportunity to be heard.
 1. At least fifteen (15) days prior to the hearing, notice of the time and place and summary of the proposed amendment to be discussed shall be published in the official newspaper or paper of general circulation in the area.
 2. The planning and zoning commission shall also make available a notice to other papers, radio and television stations serving the jurisdiction for use as a public service announcement.
 3. Notice shall be provided by mail to property owners or purchasers of record of land being considered for reclassification, and within three hundred feet (300') of the external boundaries of the land being considered.
 4. When notice is required to be given to two hundred (200) or more property owners or residents, an alternative form of procedure of official notice of public hearing for the planning and zoning commission shall be that the public hearing notice shall be published in the official newspaper or newspaper of general circulation in the area through a display advertisement at least four inches (4") by two (2) columns in size at least fifteen (15) days prior to the public hearing date.
 5. Notice shall also be posted on the premises being considered for reclassification not less than one week prior to the hearing.
- B. Changes Require Further Notice And Hearing: Following the planning and zoning commission hearing, if the planning and zoning commission makes a material change in the ordinance, other than that published for present hearing, further notice and hearings shall be provided either before the planning and zoning commission or before the city council.
- C. Records Maintained: A record of the hearing, findings made, and actions taken shall be maintained for a period of at least six (6) months.

9-5-5: ANNEXATION

- A. Annexation Provisions: Annexation by the city shall follow the general provisions provided by section 50-222 and 50-223 of the Idaho Code and the following provisions under this Chapter.
 - 1. Prior to city council approving an ordinance for annexation, the planning and zoning commission shall hold a public hearing (see 9-5-4).
 - 2. The commission shall receive testimony regarding the annexation, comprehensive planning policies, where necessary, and zoning classification of the lands to be annexed.
 - 3. A zoning district classification of the property is required prior to the public hearing.
- B. Annexation Agreement: The city attorney, in consultation with city staff, may, but is not required to, draft an annexation agreement to address conditions specific to the annexation request. Following the public hearing, the planning and zoning commission's recommendation to the city council may include suggestions and revisions to the annexation agreement.

9-5-6: RECOMMENDATION TO CITY COUNCIL

- A. No later than two (2) regular meetings from a planning and zoning public hearing, a recommendation shall be submitted to city council.
- B. The planning and zoning commission may recommend that the amendment, reclassification, annexation, supplement, provision or regulation request be granted as submitted or it may recommend a modification of the request, or recommend that the request be denied. The planning and zoning commission shall ensure that any recommendation for amendment, reclassification, or annexation is in accordance with the comprehensive plan.

9-5-7: ACTION BY CITY COUNCIL

- A. Public Hearing: Prior to adopting, revising, or rejecting a proposed amendment, reclassification, annexation, supplement, provision or regulation, the city council may conduct at least one public hearing within ninety (90) days of the planning and zoning commission's recommendation. The city council shall use the same notice and hearing procedures used by the planning and zoning commission.
- B. Material Change: If there is a material change from what was presented at public hearing, further notice and hearing shall be provided within ninety (90) days of the planning and zoning commission's recommendation before city council renders a decision.
- C. Acceptance Of Recommendation: The city council shall accept the recommendation of the planning and zoning commission, unless rejected by majority vote. Such action by the city council shall be taken within ninety (90) days of the planning and zoning commission recommendation if city council does not conduct a public hearing.
- D. Amendment Approval: In the event city council shall approve an amendment, reclassification, annexation, supplement, provision or regulation, such change

shall be made upon preparation, passage, and publication in the manner required by law. (Ord. 2010-4)

9-5-8: RESUBMISSION OF APPLICATION

No application for a land use reclassification of any property that has been denied shall be resubmitted in either substantially the same form or with reference to substantially the same premises for the same purpose within a period of six (6) months from the date of such denial, unless there is an amendment to the comprehensive plan that applies to the specific property under consideration. (Ord. 2008-4)