

Chapter 19

AMENDMENTS

Section 19.1 Metropolitan Council Amendments

The Metropolitan Council may amend this Unified Development Code upon its own motion or upon petition.

Section 19.2 No such amendment shall be effective unless:

- A. The Metropolitan Council has received a final report from the Planning Commission on the merits of the amendment. The Metropolitan Council has held a public hearing upon the proposed amendment at which parties in interest and citizens shall have an opportunity to be heard at least fifteen (15) days notice of which hearing has been published in the official journal of the City of Baton Rouge (the Parish of East Baton Rouge).
- B. The Metropolitan Council may amend Chapter 15 of the Unified Development Code upon its own motion or upon petition without a recommendation from the Planning Commission.

Section 19.3

Any citizen may petition for a change or amendment to the official zoning map regarding a particular piece of property provided that the owner of that property provides written evidence of consent of such amendment and it has been one (1) year or longer since the first denial of a similar petition to rezone a particular piece of property, and two (2) years or longer since the second and subsequent denial of a similar petition to rezone a particular piece of property, subject to advertising and posting the same as any other application. The Planning Director may accept and process an application for a zoning change on the same property, without regard to the time restrictions identified above, if he determines that the new application is substantially different from the previously denied application(s), meaning that the major issues and concerns raised in the previous denial have been addressed.

Section 19.4

Before the Zoning Commission shall consider any proposed amendment to this chapter, such proposed amendment shall be advertised in accordance with law in the official journal of the City of Baton Rouge (the Parish of East Baton Rouge). An additional advertisement shall be inserted in suitable block ad form not less than two (2) columns wide in a newspaper of general circulation published in the City of Baton Rouge three (3) times. The first of which shall appear not less than ten (10) days prior to the date set for the public hearing on the proposed amendment. The cost of such additional block advertisement shall be borne by the applicant(s) for the proposed amendment on a pro rata basis.

Sec. 19.41 Notice of Public Hearing

The official notice of the time and place of any required public hearing with respect to Land Development Applications shall be the publication of such notice as required above. A supplemental notice of the time and place of any required public hearing shall be mailed via

regular mail from the Office of the Planning Commission not less than fifteen (15) days in advance of the hearing to all owners of real property within three hundred (300) feet of the boundaries of the land upon which a Land Development Application is requested. For the purpose of notice requirements, the names and addresses of such owners shall be deemed to be those on the current Geographic Information System in the office of the East Baton Rouge Planning Commission. Failure of owners to receive supplemental notice of hearing shall in no way affect the validity of the action taken.

Section 19.5

Where an individual or organization other than the Zoning Commission or the Metropolitan Council requests such an amendment, the said individual or organization sponsoring the amendment shall request the Zoning Commission to post a sign on or adjacent to the property that is in the subject of the proposed amendment. This sign shall be yellow, a minimum size of 18" x 24" and shall include the following information printed in a minimum font size of twenty (20): the present zoning classification of the property, the zoning classification sought by the amendment, and the date, time and place of the public hearing on the proposed amendment, and the phone number and web site for the City-Parish Planning Commission. The cost of the sign shall be paid by the applicant. Where more than one (1) parcel or tract of land is involved in the proposed amendment, the sign shall be posted at a centrally located point; in addition, at least one (1) sign shall be posted on each block on each street involved in the proposed amendment. If the property under consideration does not front on a public street, an additional sign must be posted at the nearest public street. Such signs shall be posted by the Zoning Commission not less than fifteen (15) calendar days prior to the date of the public hearing to be held by the zoning commission on the proposed amendment. Prior to posting such signs by the Zoning Commission, the applicant for the proposed amendment shall deposit with the Director of Finance the required and designated fee payable to the account of the City-Parish. The applicant for the proposed amendment shall also furnish to the Zoning Commission the following information:

- A. Description of industrial or manufacturing processes. A description of any industrial or manufacturing process that will occur within the requested zoning district including a description of any waste or by-products associated with the activity and their proposed means of disposal.
- B. List of toxic or hazardous substances. A list of any toxic or hazardous substances that the applicant anticipates will be used, stored, processed, manufactured, or released in the requested zoning district shall be provided. For the purpose of this subsection, "toxic or hazardous substances" shall include those substances most currently listed and updated from time-to-time by the administrator of the E.P.A. (United States Environmental Protection Agency) pursuant to 42 U.S.C. 9602, 42 U.S.C. 11002(a)(2), and 42 U.S.C. 11023(c).
- C. Residential exemption. The reporting requirements under Section 19.5.B shall not apply to an applicant requesting a change in zoning classification for the sole purpose of residential development.
- D. Authority to withhold information. With regard to any toxic or hazardous substance required to be reported under Section 19.5.B, the applicant may withhold a specific chemical identity (including the chemical name and other specific identification), if the applicant would be exempt from the reporting requirements of 42 U.S.C. 11001 et seq. as authorized by 42 U.S.C. 11042(a), (b), (c).

Any person withholding the specific chemical identity shall, in the place on the submittal where the chemical identity would normally be included, include the generic class or category of the toxic or hazardous substance.

- E. Duty to update information. The applicant, subsequent purchasers, occupants, or operators of the property affected by the proposed zoning amendment, if approved, shall have a continuing duty to update the list required to be submitted under Section 19.2.A. This updated list shall be provided to the Planning Commission and to the authorities listed in Section 19.2.A within three (3) months of:
 - 1. Knowledge of the presence on the property of any substance required to be reported under Section 19.5.B that was not included on the list previously submitted under Section 19.2.A.
 - 2. Knowledge that a substance included on a previously submitted list is no longer on and anticipated to be on the property.

Section 19.6 Action by the Metropolitan Council

- A. Any proposed amendment that has failed to receive the approval of the Planning Commission shall not be passed by the Metropolitan Council except by a favorable vote of 2/3 of the entire membership of the Metropolitan Council.
- B. Any proposed amendment changing the zoning designation of privately-owned real property initiated by motion of Metropolitan Council shall require a favorable vote by 2/3 of the entire membership of the Metropolitan Council, unless the proposed amendment has the written consent of the property owner(s) indicating support for the proposed change. This provision shall not apply to any publicly-owned lands.

Section 19.7 Rezoning Criteria

Upon receipt of a petition for a change or amendment, the Metropolitan Council shall refer the matter to the Planning Commission which shall have thirty (30) days to render a preliminary report upon the merits of the amendment. The member making a motion which differs from the Planning Staff recommendation may render a written statement in suitable form along with the Planning Commission and Staff reports to the Planning Director for transmittal to the Metropolitan Council. In addition, any other member may submit a written opinion on the matter, which shall be transmitted to the Metropolitan Council by the Planning Director along with the Planning Commission report. These may refer to the following guidelines and criteria.

- A. Rezoning Guidelines and Criteria. Before the Planning Commission recommends or the Metropolitan Council rezones property, there should be reasonable factual proof by the proponent of a change that one or more of the following criteria are met:
 - 1. Land use pattern or character has changed to the extent that the existing zoning no longer allows reasonable use of the proponents' property and adjacent property. Reasonableness is defined as:
 - a. Land use the same as, or similar to that existing on properties next to, or across the street from the site under consideration;

- b. Consideration of unique or unusual physical or environmental limitations due to size, shape, topography, or related hazards or deficiencies;
 - c. Consideration of changes in land value, physical environment or economic aspects which tend to limit the usefulness of vacant land or buildings.
- 2. The proposed zoning change, and the potential of a resulting land use change, will comply with the general public interest and welfare and will not create:
 - a. Undue congestion of streets and traffic access;
 - b. Overcrowding of land or overburden on public facilities such as transportation, sewerage, drainage, schools, parks, and other public facilities;
 - c. Land or building usage which is, or may become incompatible with existing character or usage of the neighborhood;
 - d. An oversupply of types of land use or zoning in proportion to population, land use, and public facilities in the neighborhood.
- 3. The proposed zoning change is in keeping with zoning law and precedent, in that:
 - a. It is not capricious or arbitrary in nature or intent;
 - b. It does not create a monopoly, or limit the value or usefulness of neighboring properties;
 - c. It does not adversely affect the reliance that neighboring property owners or occupants have placed upon existing zoning patterns;
 - d. It does not create a spot zone, that is, an incompatible or unrelated classification which would prevent the normal maintenance and enjoyment of adjacent properties.

As far as possible, the Planning Staff should base rezoning analyses on these criteria. The Planning and Zoning Commission in its recommendations to the Metropolitan Council, may state its concurrence with, or rejection of, proponents' offers of proof of Public Hearings and may state, in its motion of recommendation to the Metropolitan Council, its position in relation to proponents' statements and Planning Staff analysis; and such statements and analyses shall be forwarded to the Metropolitan Council along with the Zoning Commission recommendations.

If the Planning Commission recommends denial and the Metropolitan Council concurs, the matter need not be introduced for public hearing. If the Planning Commission vote to deny is unanimous, any member of the Metropolitan Council may introduce an appeal of the rezoning decision of the Planning Commission at the Metropolitan Council meeting following the rezoning decision of the Planning Commission, failure to appeal will make the Planning Commission decision final. The matter shall not be introduced except by a majority vote by the Metropolitan Council. If the Metropolitan Council introduces the appeal of the rezoning

decision, the item shall be heard at the next regularly scheduled Metropolitan Council Zoning Meeting. Failure to introduce the rezoning will make the Planning Commission decision final.

Section 19.8 Withdrawal of applications

- A. Any application which the applicant wishes to withdraw from Zoning Commission public hearing must be withdrawn by written notice to the Planning Commission staff prior to 5:00 p.m. on the day of the Planning Commission public hearing, and following such withdrawal will not be accepted for re-advertisement for six (6) months, except on majority vote by the Zoning Commission.

- B. When application is duly advertised and not withdrawn as set forth above, a public hearing shall be held by the Zoning Commission and a report forwarded to the Metropolitan Council along with any applicable petition received, and may be withdrawn from Metropolitan Council action only by written request to the Council Administrator before closing of the Metropolitan Council agenda at noon on the Monday preceding the public hearing. Any such application withdrawn in this manner shall not be accepted for re-advertising for one (1) year.

- C. Any rezoning application, withdrawn after Planning Commission action but prior to Metropolitan Council action, may be re-filed with the Planning Commission in less than one (1) year provided that the Planning Commission approves a written request showing there is evidence not previously considered or extenuating circumstances.

Section 19.9 Amending the Comprehensive Land Use Plan

Section 19.91

The Comprehensive Land Use and Development Plan and the “Comprehensive Land Use Plan” component, as previously adopted by the Metropolitan Council, may be amended in accordance with the rules and procedures as set forth hereafter.

Section 19.92

Textural changes of the Comprehensive Land Use and Development Plan may be proposed on a bi-annual basis, in May and November. Proposed changes shall be administered by the Planning Commission staff. A public hearing of such changes shall be held by the Planning Commission and the Metropolitan Council.

Section 19.93

“Comprehensive Land Use Plan” amendments will be categorized as (A) “Small Scale Land Use Plan Amendments” or (B) “Large Scale Land Use Plan Amendments,” pursuant to the following criteria:

- A. A Small Scale Land Use Plan Amendment is defined as a change involving a lot or tract of land of five acres or less.

- B. Large Scale Land Use Plan Amendment is any proposed amendment which exceeds the above outlined criteria for Small Scale Land Use Plan Amendments.

Section 19.94

No Comprehensive Land Use and Development Plan or “Comprehensive Land Use Plan” amendment shall become effective until public hearings have been held in accordance with the following provisions of this section. Every amendment shall be subject to a public hearing before the Planning Commission following legal notice within the three legal advertisements for rezoning hearings. Public hearing before the Metropolitan Council shall be at the next regularly scheduled Metropolitan Council Zoning meeting following recommendation by the Planning Commission and being advertised with the regular public notice which precedes the Metropolitan Council meeting.

Section 19.95

Publication of public notice of proposed amendments shall follow the schedule as described above in Section 19.94. In addition, each Large Scale Land Use Plan Amendment applicant shall publish a “display ad” at least ten (10) days prior to the date of the Planning Commission public hearing. This ad shall be no less than one-quarter page in the official journal of the City of Baton Rouge and Parish of East Baton Rouge. Such ad shall not be placed in that portion of the newspaper where legal notice and classified advertisements appear. The headline in such advertisement shall be in a type no smaller than eighteen (18) points, and shall appear in substantially the following form:

NOTICE OF CHANGE OF LAND USE

It is proposed to change the Comprehensive Land Use and Development Plan “Comprehensive Land Use Plan” from (land use category) to (land use category) within the area shown on the map below. A public hearing on the proposal will be held by the Planning Commission on (date and time) and the Metropolitan Council on (date and time) at (meeting place). Such advertisement shall contain a geographic location map at a scale approved by the Planning Commission Staff which clearly indicates the area covered by the proposal. The location map shall include major street names as a means of identification of the area.

Section 19.96 Timing of Land Use Plan Amendments

Small Scale Land Use Plan Amendments, Large Scale Land Use Plan Amendments, and Major Street Plan Amendments shall follow the schedule of rezoning applications. The Planning Commission staff will institute such cutoff dates and application procedures so as to facilitate the public hearings and final action.

Section 19.97 Land Use Plan Amendment Fee Schedule

The Planning Commission staff is authorized and directed to charge fees for proposed amendments to the Comprehensive Land Use and Development Plan.

Section 19.98

The above provisions of this resolution relative to proposed Comprehensive Land Use and Development Plan amendments shall be considered controlling if in conflict with any provision of the Comprehensive Land Use and Development Plan.