

CHAPTER 21. AMENDING THE LAND DEVELOPMENT REGULATIONS; MAPS

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**CHAPTER 21. AMENDING
THE LAND DEVELOPMENT REGULATIONS; MAPS**

ARTICLE 1. TEXT AND MAP AMENDMENTS

Sec. 21.1.1. GENERAL.

The City may amend the Land Development Regulations, the zoning district regulations and zoning map(s) subject to the below requirements and procedures.

Sec. 21.1.2. INITIATION.

21.1.2.1. Proposed changes may be suggested by the City Commission, the Planning Commission, or in the case of zoning map amendments, by petition of the owners of 51 percent of the area involved in the proposed change. In the latter case, the petitioner(s) shall be required to assume the cost of public notice and other costs incidental to the holding of public hearings, as set forth in the schedule of fees, charges and expenses established by the City Commission.

21.1.1.2. Upon acceptance of the application of the petitioner(s) by the Administrative Official as being properly filed and in due form, with all required supporting material, or upon other valid proposal for change, the Planning Commission shall set a date for a public hearing.

Sec. 21.1.3. PUBLIC NOTICE OF HEARING BEFORE THE PLANNING COMMISSION.

The Planning Commission shall give due public notice of such hearing, as generally required, and may give additional notice as called for by the circumstances of particular cases. In the case of a zoning map amendment initiated by the City Commission or Planning Commission, or a re-zoning amendment initiated by a property owner, the City Commission, or Planning Commission, all property owners within 300 feet of the subject property shall be notified in writing via U.S. Mail of the public hearing.

Sec. 21.1.4. PUBLIC HEARING BEFORE THE PLANNING COMMISSION; POSTPONEMENT; ACTION FOLLOWING; FAILURE TO ACT.

21.1.4.1. Unless the proposal for change is withdrawn by letter or other formal notice prior to be announced hearing, the hearing shall be held at the same time and place announced; provided, however that if it is postponed before the hearing is legally convened, new public notice shall be published as for the original notice. Where such postponement is at the request of the petitioner(s), the cost of new notice and other incidental costs shall be paid by the petitioner(s) as for the original petition.

21.1.4.2. Following the hearing, Planning Commission shall prepare and by motion adopt its recommendations, which may include changes from the original proposal as a result of the hearing, and shall transmit such written recommendations to the City Commission. Failure of the Planning Commission to report within 60 days of its first meeting following receipt of the proposal, unless a longer period has been agreed upon by the City Commission, shall be deemed approval by the Planning Commission.

Sec. 21.1.5. PUBLIC HEARING BEFORE CITY COMMISSION - GENERAL.

Upon receipt of recommendations of the Planning Commission, or upon failure to receive such recommendations within the period specified above, the City Commission shall set a date for its public hearing, which shall be not more than 60 days from the date the recommendation is received or the date upon which the City Commission determines to take action in the absence of the recommendation due to failure of the Planning Commission to report.

Sec. 21.1.6. PUBLIC HEARING BEFORE CITY COMMISSION - POSTPONEMENT; ACTION FOLLOWING HEARING.

21.1.6.1. Unless the proposal is withdrawn by letter or other formal notice prior to the announced hearing, the hearing shall be held at the time and place announced; provided, that if it is postponed before the hearing is legally convened, procedures and requirements shall be as for postponement of a hearing before the Planning Commission above.

21.1.6.2. Following the hearing, the City Commission may make appropriate changes and corrections in the proposed amendment; provided that in the case of a zoning map amendment:

21.1.6.2.1. No additional land shall be rezoned to a different classification than was contained in the public notice;

21.1.6.1.2. No land shall be rezoned to a less restricted classification than announced in the public notice; and

21.1.6.2.3. No change shall be made in the proposed amendment which is different from the amendment advertised, without new advertised public notice and hearing.

21.1.6.2.4. No land shall be rezoned to a district classification that is inconsistent with the Comprehensive Plan.

Sec. 21.1.7. LIMITATIONS ON AMENDMENTS.

- 21.1.7.1. The Planning Commission shall not recommend, nor the City Commission pass, any amendment except on substantial proof that it is in compliance with the Comprehensive Plan and will serve to promote the purposes of the development regulations as provided by State law.
- 21.1.7.2. In the case of zoning map amendment, no amendment to rezone property shall contain conditions, limitations or requirements not applicable to all other property in the district to which the particular property is rezoned.
- 21.1.7.3. In the case of a zoning map amendment, no change in the zoning classification(s) of land shall be considered which is consistent with the Future Land Use Map classification(s) of the property.
- 21.1.7.4. If the recommendation of the Planning Commission is adverse to any proposed change, such change shall not become effective except by the affirmative vote of 4 members of the City Commission.
- 21.1.7.5. Whenever the City Commission has, in the case of a zoning map amendment, changed the zoning classification of property, the Planning Commission shall not then consider any petition for rezoning of any part or all of the same property for a period of one year from the effective date of the amendatory ordinance.
- 21.1.7.6. Whenever the City Commission has denied a petition for a zoning map amendment, the Planning Commission shall not thereafter:
- 21.1.7.6.1. Consider any further application for the same rezoning on any part of all of the same property for a period of 18 months from the date of such action.
- 21.1.7.6.2. Consider an application for any other kind of rezoning on any part of all of the same property for a period of one year from the date of such action.
- 21.1.7.7. The time limits of subsections 21.1.7.5. and 21.1.7.6. above may be waived by the affirmative vote of 3 members of the City Commission when such action is deemed necessary to prevent injustice or to facilitate proper development within the City.

ARTICLE 2. FUTURE LAND USE MAP AMENDMENTS.

Sec. 21.2.1. GENERAL.

The adoption of the Comprehensive Plan by the City Commission included the adoption of a Future Land Use Map, which is a component of the Future Land Use Element. This Element is one of the eight Plan Elements adopted by the City. The Future Land Use Map is the instrument used to graphically designate all lands within the corporate limits with future land use classifications. The future land use classifications determine and dictate the type of zoning district to be applied to each parcel of land within the City. The individual zoning district applied to a parcel of land determines the actual uses permitted.

Due to unforeseen changing conditions and circumstances in and around the City, driven in part by market conditions and migration of people to the State and beyond local control, request will be submitted for amendments to the Future Land Use Map. Generally these requests will be for change of the adopted land use classification on a parcel of land to a greater density or more intense land use classification.

Petitions for such amendments will require review by City Staff to determine, if granted, the internal consistency with all of the other Plan Elements, what impacts such change would have on public facilities, the compatibility with adjoining land uses, existing and projected, and if the Concurrency Management System conditions and level of service standards can be met.

A Future Land Use Map amendment is required to be submitted to the State Land Planning Agency for either a 30 or 60 day review process. The purpose of this review is to determine if the proposed Map amendment is in compliance with the applicable provisions of Chapter 163, F.S. Amendments to the Plan, including Future Land Use Map amendments, may be made not more than four times during any calendar year, except in the case of an emergency and except as provided for in Sec. 21.2.7. herein.

Sec. 21.2.2. MAP AMENDMENT FREQUENCY.

21.2.2.1. The Comprehensive Plan can be amended no more than four times per calendar year for land use amendments, except as provided for in Sec. 21.2.7. herein. In order to comply with State law and to minimize the administration process for amendments, the City has established the four transmittal public hearing dates as follows. These dates are intended to be used as guidelines and may be adjusted by the Administrative Official, as appropriate.

21.2.2.1.1. The City Commission meeting immediately following the January Planning Commission meeting;

21.2.2.1.2. The City Commission meeting immediately following the April Planning Commission meeting;

21.2.2.1.3. The City Commission meeting immediately following the July Planning Commission meeting;

21.2.2.1.4. The City Commission meeting immediately following the October Planning Commission meeting;

Sec. 21.2.3. MAP AMENDMENT INITIATION.

21.2.3.1. Future Land Use Map amendments are required as a result of the following actions:

21.2.3.1.1. Petitions by property owner(s);

21.2.3.1.2. Initiation by the Local Planning Agency; and

21.2.3.1.3. Initiation by the City Commission.

21.2.3.1.4. Annexation of land into the City.

Sec. 21.2.4. MAP AMENDMENT PROCEDURE.

21.2.4.1. A petition must be filed by a property owner(s) with the Administrative Official for a Map amendment, either as a result of annexation or a desired change in intent of land use, or in the case of City initiation, the Administrative Official shall set in motion the public hearing process as required by law.

In the case of property owner petition, the application will be reviewed for completeness and the petitioner notified of any deficiencies within 10 working days. Revised material shall then be submitted within 10 working days of notice for the request for Map amendment to be processed.

In both instances, the Local Planning Agency shall hold an advertised public hearing, with a minimum of 10 days notice, on the proposed Map amendment and its recommendation to the City Commission. Except as provided in subsection 21.2.7.7, the City Commission shall hold one advertised public hearing for proposed small scale amendments and at least two advertised public hearings for proposed State Coordinated Review and Expedited State Review amendments as follows:

21.2.4.1.1. The first public hearing by the City Commission shall be held at the transmittal stage in compliance with Chapter 163.3184(3), F.S. It shall be held on a weekday approximately 7 days after the day that the first advertisement is published. The intention to hold and advertise a second public hearing shall be announced at the first public hearing. The transmittal action by the City Commission shall be taken by resolution.

State Coordinated Review Amendment Process

21.2.4.1.2. Following the first advertised transmittal public hearing by the City Commission, the City shall immediately send (3) three copies of the proposed plan amendments to the State Land Planning Agency, and (1) copy to the appropriate review agencies, and clearly indicate on the transmittal letter that the "amendment is subject to State Coordinated Review process pursuant to Section 163.3184(4), Florida Statutes." Within 5 working days of receipt by the State Land Planning Agency the City shall be notified whether or not the submittal is complete. After the submittal is considered complete, the State Land Planning Agency has a maximum of 60 days to issue a written Objections, Recommendations and Comments Report (ORC) to the City.

21.2.4.1.3 The second advertised public hearing by the City Commission and first reading of the ordinance shall be held to adopt the amendment in compliance with Chapter 163.3184(7) F.S., within 180 days after receipt of the ORC or proposed amendment will be deemed withdrawn. It shall be held on a weekday approximately 5 days after the day of the second advertisement is published.

21.2.4.1.4 The City shall submit (3) three copies of the adopted plan amendment to the State Land Planning Agency and one copy to the review agencies within 10 days after adoption. The adopted amendment becomes effective 45 days after the State Land Planning Agency issues a Notice of Intent on the agency's website.

21.2.4.1.5 The City Commission has the right to deny the request for Map amendment. If the City Commission should choose not to adopt the proposed amendment, the Administrative Official shall send a letter to the State Land Planning Agency indicating that the previously proposed amendment will not be adopted.

If the proposed Map amendment is found to be not in compliance with State law, the process described in Chapter 163.3184(5), F.S. shall be followed unless the petitioner withdraws the petition or in the instance of City initiation, the City withdraws its proposed Map amendment.

Expedited State Review Amendment Process

21.2.4.1.6. Within (10) ten days of the first public hearing by the City Commission, the City shall immediately transmit (3) three copies of the proposed plan amendments to the State Land Planning Agency, and (1) copy to the appropriate review agencies.

Within 5 working days of receipt by the State Land Planning Agency the City shall be notified whether or not the submittal is complete. After the submittal is considered complete, the State Land Planning Agency, reviewing agencies and any other affected person as defined under Chapter 163.3184(1)(a), F.S., shall submit their comments to the City within 30 days of the complete submittal date.

21.2.4.1.7. The second advertised public hearing by the City Commission and first reading of the ordinance shall be held to adopt the amendment in compliance with Chapter 163.3184(4)(e), F.S., within 180 days after receipt of agency comments or proposed amendment will be deemed withdrawn. It shall be held on a weekday approximately 5 days after the day of the second advertisement is published.

21.2.4.1.8. The City shall submit (3) three copies of the adopted plan amendment to State Land Planning Agency and one copy to the review agencies that provided timely comments within 10 days after adoption. The State Land Planning Agency has 30 days to review from the receipt of a complete adopted plan amendment. The adopted amendment becomes effective 31 days after the State Land Planning Agency issues a Notice of Intent on the agency's website.

21.2.4.2. The City Commission has the right to deny the request for Map amendment. If the City Commission should choose not to adopt the proposed amendment, the Administrative Official shall send a letter to the State Land Planning Agency indicating that the previously proposed amendment will not be adopted.

If the proposed Map amendment is found to be not in compliance with State law, the process described in Chapter 163.3184(5) F.S. shall be followed unless the petitioner withdraws the petition or in the instance of City initiation, the City withdraws its proposed Map amendment.

Sec. 21.2.5. MAP AMENDMENT CONSISTENCY AND CONCURRENCY.

21.2.5.1. Any Future Land Use Map amendment to be considered for approval and adoption by the City Commission shall be found to be internally consistent with the applicable goals, objectives and policies of the Plan Elements of the Comprehensive Plan.

21.2.5.2. Potential impacts of land uses that may be permitted as a result of any Future Land Use Map amendment to be considered for approval and adoption by the City Commission shall be reviewed to determine if the

concurrency management system conditions and level of service standards can be met.

21.2.5.3. A report from City Staff, establishing whether the proposed Map amendment is or is not internally consistent with the applicable goals, objective and policies of the Comprehensive Plan and whether or not the proposed Map amendment meets the concurrency management system requirements, shall be submitted to the Local Planning Agency and the City Commission for use and consideration at public hearings.

Sec. 21.2.6. STATUS OF ANNEXED LAND.

21.2.6.1. All lands which may hereafter be annexed into the City shall be classified in the same future land use classification as the predominant contiguous lands inside previous City limits until otherwise classified. Should the petitioner for annexation request or should the City initiate, at the time of annexation, a future land use classification different from the predominant contiguous lands inside previous City limits, the Future Land Use amendment process outlined above shall be followed.

Sec 21.2.7. SMALL SCALE MAP AMENDMENTS.

21.2.7.1. Small scale map amendments are classified as follows:

21.2.7.2. A petition for a small scale map amendment(s) may be submitted and considered by the City at any time during the calendar year. Such petitions shall comply with the applicable requirements of the LDR and the APM.

21.2.7.3. No more than 120 total acres shall be amended by land use categories by the City within a calendar year.

21.2.7.4. Proposed small scale map amendments shall not involve the same property(s) more than once with the calendar year.

21.2.7.5. Proposed small scale map amendments shall not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.

21.2.7.6. Comprehensive Plan text amendments specifically related to a small scale map amendment are permissible and may be processed concurrently.

21.2.7.7. Legal notices shall comply with the content provisions of Section 166.041(3)(a), F.S. [No 1/4 page ads are required for small scale map amendments if the legal ad complies with the content provisions Section 166.041(3)(a), F.S.]

21.2.7.8. Small scale map amendments require only one public hearing before the governing body, which shall be an adoption hearing as described in Sections 163.3187(2) and 163.3184(11), Florida Statutes. (The Planning Commission will need to hold an advertised public hearing as required in this Chapter 21. However, the City Commission will still be required to have two readings of the adoption ordinance.)

21.2.7.9 The City may send copies of the Plan amendment(s) to The State Land Planning Agency, the Regional Planning Council, and any other person or entity requesting a copy. The small scale map amendment shall become effective 31 days after adoption if not challenged within 30 days after adoption.