

SECTION 3. ADMINISTRATIVE PROCEDURES

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3.1 PURPOSE

The purpose of this Section is to outline the general application, notice and public hearing procedures for the zoning applications and approvals found within this Zoning Ordinance.

3.2 APPLICATION

A. Authorization

An application for a zoning interpretation, zoning appeal, zoning variance, conditional use permit, site plan, design review, planned development, use and occupancy permit, zoning text amendment, zoning map amendment or sign permit may be filed by an owner of the subject property in the City or their authorized agent.

B. Pre-submittal Staff Meeting

Applicants and their professional consultants are encouraged to meet with City staff prior to finalizing and submitting applications. This especially applies to planned development master plans, zoning amendments and site plan and design review applications. City staff which should participate varies with conditions but may include staff from the Planning, Public Works, and Codes Departments and the Fire Marshall. The applicant is encouraged to provide plans which the staff may retain to review in more detail. The meeting should be scheduled far enough in advance to allow for meaningful review and for changes to be made to the application and plans prior to the submittal date.

C. Filing

1. An application for a zoning interpretation, zoning appeal, zoning variance, site plan and/or design review, conditional use permit, planned development, zoning text amendment, zoning map amendment, use and occupancy permit or sign permit shall be filed with the Planning Department.
2. The application shall be submitted by the deadline specified in the Submittal Guide published annually by the Planning Department. Application shall be on forms provided by the City and shall be filed in such number as the instructions provide. All plans shall be at a scale sufficient to permit a clear and precise understanding of the proposal. Maximum plan sizes are shown on the Submittal

Guide available in the office of the Planning Department and on the City website. The application shall include information, plans and data as specified on the checklist provided by the Planning Department and sufficient to determine whether the application conforms to the requirements set forth in this Ordinance.

D. Completeness

The Planning Department shall determine whether the application is complete. If the application is not complete, the Planning Department shall notify the applicant of any deficiencies within one (1) week, and shall take no steps to process the application until the deficiencies are remedied. Once the Planning Department determines that the application is complete, the application shall be scheduled for consideration by the appropriate board, commission or official.

E. Fees

Every application shall be accompanied by the required filing fee as established and modified, from time to time, by the Board of Mayor and Aldermen. The failure to pay such fee when due shall be grounds for refusing to process the application, and for denying or revoking any permit or approval for the subject property. No fees shall be waived, and no fees shall be refunded, except those authorized by the Board of Mayor and Aldermen at its sole discretion.

F. Staff Review and Comments

Copies of the submitted plans for master plans and site plan and design review approval shall be distributed by the Planning Department to all City staff which administers standards which relate to the application. These may include Planning staff, Public Works staff, Codes Inspectors and the Fire Marshall. A copy of the plans shall also be distributed to the Utility District which serves the proposed development (Hendersonville Utility District or White House Utility District), if applicable.

Staff review of applications for site plan and design review approval shall be performed by an AICP certified planner and/or licensed landscape architect. Staff review of landscape and irrigation plans shall be performed by a licensed landscape architect.

Staff shall submit initial staff comments in accordance with the Submittal Guide.

Applicants shall address all staff comments. This does not mean they shall make all changes recommended by staff, but, if not, appropriate written response must be provided. If not, the staff has the right to withhold applications from the agenda until responses are provided. Applicants shall submit final plans as per the Submittal Guide. The number and size of copies shall be as specified in the Submittal Guide.

Staff shall submit final staff comments. The Planning Department shall assemble the comments into a Staff Report and Comments which shall be distributed to the Planning Commission and applicant.

G. Withdrawal of Application

An applicant shall have the right to withdraw an application at any time prior to the decision on the application by a City official, commission or board, including the ability to withdraw the application if it has been deferred by a commission or board. There shall be no refund of fees. Requests for withdrawal shall be in writing by the applicant, or their designated representative.

H. Successive Applications

Within one (1) year of the date of denial, a subsequent application shall not be reviewed or heard unless there is substantial new evidence available, or if a significant mistake of law or of fact affected the prior denial. Such subsequent application then shall include a detailed statement of the grounds justifying its consideration. The Planning Department shall make a determination as to whether the subsequent application is appropriate. If the Planning Department finds that there are no grounds for consideration of the subsequent application, he/she shall summarily, and without hearing, deny the request.

3.3 NOTICE

A. Type(s) of Notice Required

1. Zoning Text Amendment:

Published Notice of Board of Mayor and Aldermen Public Hearing. See Section 3.3B (Published Notice).

2. Zoning Map Amendment/Rezoning including rezoning to a Planned Development along with the approval of Preliminary Development Plan:

Mailed Notice and Posted Notice of Planning Commission Public Hearing. See Section 3.3C (Mailed Notice) and 3.3D (Posted Notice).

and,

Mailed Notice and Posted Notice of Board of Mayor and Alderman Public Hearing. See Section 3.3C (Mailed Notice) and 3.3B (Published Notice).

3. Changes/Revisions to Development Plans:

Mailed Notice of the Planning Commission and/or Board of Mayor and Aldermen Public Hearing. See Section 3.3C (Mailed Notice).

NOTE: As per Section 8.9 (Changes to Planned Developments), the Planning Commission and Board of Mayor and Aldermen decide on a case by case basis as to whether it will conduct a Public Hearing.

4. Zoning Variance and Conditional Use:

Published Notice of Board of Zoning Appeals Public Hearing. See Section 3.3C (Mailed Notice),

and,

Mailed Notice of Board of Zoning Appeals Public Hearing. See Section 3.3C (Mailed Notice).

B. Published Notices

The notice shall be published in a newspaper of general circulation within the City. The notice shall include the date, time, place and purpose of such hearing, the name of the applicant, and the address or location of the subject property. Such notice shall be published no less than fifteen (15) days, nor more than thirty (30) days, in advance of the scheduled hearing date. A copy of the Published Notice shall be provided to the clerk of the Board and to the Board.

C. Mailed Notice

1. Mailed notice shall be in the form of a written notice provided by the Planning Department. The notice shall be mailed by regular mail no less than fifteen (15), but no more than thirty (30), days prior to the public hearing to all affected property owners located within two-hundred fifty (250) feet from the property line of the subject property. The Planning Department may increase or decrease this distance as deemed appropriate for the circumstances. The two-hundred fifty (250) feet shall be measured from all directions along the perimeter of the subject property.
2. The Planning Department shall obtain the names and mailing addresses of the affected owners from the Sumner County Tax Assessor Geographic Information System or similar service. The City shall provide an affidavit stating that notices were mailed. The notice shall include the date, time, place and purpose of such hearing, the name of the applicant, and the address or location of the subject property.

D. Posted Sign Notices

A sign shall be posted on the subject property in accordance with the following provisions:

1. Location and Time Period for Posting Signs

The required posting period shall be no less than fifteen (15) consecutive days, but no more than thirty (30) days, prior to the public hearing (excluding the day of the hearing). The sign shall be posted at a prominent location on the property, near the sidewalk or public right-of-way so that it is visible to passing pedestrians and motorists. Properties with more than one (1) street frontage shall be required to post one (1) sign visible from each street frontage, if, in the opinion of the Planning Department such is appropriate.

2. Responsibility for Posting Signs

It is the City's responsibility to erect the sign on the property. The City shall provide an affidavit to the body conducting the hearing verifying compliance with the sign posting requirement.

E. Failure to Post

Failure to provide notice as required by this section may constitute grounds for suspension or continuance of the approval process.

3.4 PUBLIC HEARING

A. Conduct of Public Hearings

1. A public hearing is a formal proceeding mandated by law for the purpose of taking evidence to formulate a decision or recommendation on an issue within the jurisdiction of the Board of Zoning Appeals, Planning Commission and Board of Mayor and Aldermen. The primary purpose of a public hearing is to allow interested parties an opportunity to listen and comment on evidence presented at any legislatively mandated proceeding.
2. Meetings of the Board of Zoning Appeals, Planning Commission and Board of Mayor and Aldermen, including public hearings, shall be subject to the Tennessee Open Meetings Act.
3. The Chair, with the consent of two thirds (2/3) majority of the body present, may limit individual testimony to a specific time to provide a reasonable opportunity for all interested persons to testify.
4. At a public hearing, an applicant may appear on his or her own behalf or may be represented by an attorney, consultant or other agent qualified to represent the petitioner.
5. In addition to the applicant, any person having an interest in the action which is the subject of the public hearing may appear at the public hearing and give testimony.

6. An interested party wishing to testify at the public hearing shall state for the record his or her name and address.
7. Minutes shall be distributed with the agenda for the next regular meeting, or as soon as such may be reasonably available.

B. Continuances

The Chair, with approval of the body conducting the hearing, or, in the absence of a quorum, the Planning Staff in attendance, may change or continue the regular public hearing date and time. In order to reopen the hearing, no new notice shall be required if a hearing is continued to a specific date, provided that a public announcement of the future date, time and place of the continued hearing is made at the hearing, and placed in the minutes. If the hearing is adjourned, rather than continued to a specific date, in order to reopen the hearing, all notices must be given that would have been required for the initial public hearing per Section 3.3 (Notice).