

**UNIFIED DEVELOPMENT CODE
ARTICLE 3., GENERAL PROCEDURES
SECTION 3.5, REZONING (CHANGE OF ZONING)**

3.5.3. ZONING EXAMINER LEGISLATIVE PROCEDURE

D. Application Requirements

1. General

See the Administrative Manual for application submittal requirements. Applications are reviewed for completeness in compliance with Section 3.2.3.A.

2. Initiation

A rezoning may be initiated by the property owner or the owner’s agent upon submittal of a written application to amend the zoning on the property. A rezoning may also be initiated by a majority vote of the Mayor and Council.

3. Plan Amendment Determination

Rezoning ~~applications~~ cases must be in conformance with adopted plan policies ~~before a rezoning application may be accepted for processing prior to Mayor and Council authorization or ordinance adoption.~~ At the applicant’s discretion, an amendment to an adopted plan, if required, may proceed concurrently provided that, (1) the plan amendment request receive a favorable recommendation from the Planning Commission or (2) the plan amendment is approved via adoption of the proposed resolution from Mayor and Council prior to scheduling the Zoning Examiner Public Hearing for the rezoning case. A determination of plan compliance shall be made in one of the following three ways:

a. Plan Compliance Determination

- (1) Prior to submittal of a rezoning application, the PDSO Director will provide the applicant with a preliminary determination of plan compliance at the pre-application conference.
- (2) Prior to submittal of a rezoning application, the applicant may request in writing that the PDSO Director provide a written determination of plan compliance.

b. Determination by the PDSO after Application for Rezoning

Upon submittal of an application for rezoning, the PDSO Director shall provide a written determination of land use plan compliance to the applicant. If the proposal is found to comply with the applicable plans, the rezoning application is formally accepted. If the Director determines a plan amendment is necessary, (1) the applicant may choose to proceed with the plan amendment and rezoning concurrently, or (2) no further formal processing of the application may occur until the applicant requests a plan amendment in

accordance with Section 3.6, *Land Use Plan Adoption and Amendment Procedures*. A written notice of decision shall be provided if it is determined that a plan amendment is required.

c. Appeal of Plan Amendment Determination

The PDSO Director's decision that a plan amendment is required may be appealed to the Mayor and Council. The appeal must be submitted in writing to the PDSO within ten days of the effective date of the PDSO Director's decision. Appeals shall be processed in accordance with Section 3.9.2, *Mayor and Council Appeal Procedure*. An appeal stays all processing until the appeal is heard and decided.

E. Notice of Application

Notice is required as follows:

1. Mailed Notice

- a. Notice must be sent to those individuals and neighborhood associations in accordance with Section 3.2.4.B.6 and Table 3.2-1. Notice shall also be sent to all parties of record on a previous hearing on the same application.
- b. See Section 3.2.4.B.3 for the mailed notice's content requirements.

2. Posted Notice

Notice shall be posted on the subject site in accordance with Section 3.2.4.F, *Posted Notice*.

F. Review

Review is conducted by the PDSO staff and other agencies, committees or advisory boards as required by the UDC and as may be deemed appropriate by the PDSO Director.

G. Changes to the Rezoning Application

If the applicant proposes changes to the rezoning application, including any supporting materials, after the application has been accepted for processing, the PDSO Director shall determine whether or not the proposed changes are significant enough to require additional staff or agency review.

1. If the changes require additional review, the changes may be accepted only if the revised application is submitted prior to the legal advertisement and public notification of the public hearing and the changes are accompanied by the applicant's written consent to begin anew the process from the date of submittal of the revised application.
2. Upon submitting a significant change to the rezoning application, the applicant shall also submit a signed letter waiving the 70-day public hearing requirement to allow for proper staff evaluation of the new information.
3. Once the public hearing has been advertised, any request to delay the public hearing or to change the application must be submitted to the Zoning Examiner for determination. If the public hearing is delayed, the applicant shall remit to the City an additional rezoning public notice label fee to

provide mailed notice to neighbors of canceled public hearing and the rescheduled public hearing date), and an additional public hearing legal advertisement fee. If the rescheduled public hearing date cannot be determined when the notice of cancellation is mailed to neighbors, a second public hearing notice label fee must be paid by the applicant to provide the required notice to the neighboring property owners.

H. Planning and Development Services Department (PDSD) Recommendation

After City departments and public service agencies have reviewed and provided comment on the application, a staff report is prepared by the PSDS. The report is distributed to the Zoning Examiner and the principals named in the application. Owners of property located within 300 feet of the rezoning site are notified of the public hearing and provided a web link to the staff report and other materials associated with the case. The staff report and the notice of public hearing are made available to the public at least 15 days prior to the public hearing.

I. Public Hearing

1. Applications reviewed under this procedure are considered by the Zoning Examiner at a public hearing(s) for recommendation to the Mayor and Council.

2. Original City Zoning

Upon the effective date of annexation of property into the City, the City may adopt original City zoning or may continue the existing county zoning for a period not to exceed six months. The original City zoning shall only be initiated by the Mayor and Council. Notice of initiation must be provided in conformance with A.R.S. §9-461.06.A and the notice requirements of Section 3.2.4. A case that establishes original City zoning may be initiated any time after the filing of a blank petition for annexation of the subject property with the office of the Pima County Recorder in accordance with state law.

3. Zoning Examiner Public Hearing

The Zoning Examiner shall hold a public hearing on behalf of the Mayor and Council on applications for a change of zoning and on applications for Mayor and Council Special Exception Land Uses in accordance with the Zoning Examiner's Rules and Procedures and as provided below. The public hearing procedures set forth in this Section is used for both types of applications. The public hearing must be held within 70 days of acceptance of the application, except for applications for original City zoning or concurrent plan amendments-rezonings. (Ord. No. 11070, 5/14/13)

a. Conduct of the Public Hearing

(1) The Zoning Examiner is empowered to obtain information from all parties and interested persons, including public agencies, prior to the public hearing, provided all requests for information are in writing and the request and information are included as part of the public record. The Zoning Examiner also has the authority, after the close of the public hearing, to obtain additional information or clarification of information that has been presented. Any such request shall be in writing and the request and response shall be included as part of the record or report to the Mayor and Council. The Zoning Examiner may close the public hearing, or may continue the hearing to a

specified date, time and place. However, a continuance may not be for more than 30 days.

- (2) Except as permitted in subsection (1) above, the Zoning Examiner shall not communicate, directly or indirectly, with any party, any party's representative or any interested person in connection with any issue involved with a particular request, except upon notice and opportunity for all parties to participate, or, use, or rely upon any communication, report, staff memorandum, or other material prepared in connection with the particular case, unless it is made part of the record. Any and all written information received by the Zoning Examiner in the case must be made a part of the record. The Zoning Examiner may inspect the site provided all parties are given an opportunity to be present.

(Ord. No. 11070, 5/14/13)

DRAFT