

## SECTION 878

### ZONING DIVISION AMENDMENT

An amendment to this Zoning Division which changes any property from one (1) district to another or imposes any regulation not heretofore imposed or removes or modifies any such regulations heretofore imposed shall be initiated and adopted by the following procedure, except that any amendment to this Division which does not make such a change or imposition may be initiated and adopted as other ordinances are initiated and adopted.

#### A. INITIATION

1. The Commission may propose an amendment by a Resolution of Intention.
2. The Board of Supervisors may propose an amendment by a Resolution of Intention.
3. A property owner or the authorized representative of an owner may propose an amendment to change property from one district to another by filing a verified petition with the Commission, provided that such a petition must be signed by owners of at least sixty (60) percent of the area directly affected by such proposed amendment.

(Amended by Ord. 490.181 adopted 8-7-79)

#### B. PETITIONS

##### 1. Form of Petition

The Commission shall prescribe the form in which applications for changes of zone are made. It may prepare and provide blanks for such purpose and may prescribe the type of data and information to be provided by the petitioner to assist in determining the validity of the request. No application shall be received unless it is full and complete and complies with such requirements.

##### 2. Verification of Petition

The Director shall verify the accuracy and completeness of the application and the date of verification shall be noted on the application.

##### 3. Submission of Supplementary Data

In addition, the applicant may provide to the Director such data and information as will assist the Director to make a recommendation to the Commission. Such data may include:

- a. Economic studies and surveys.
- b. Traffic studies.
- c. Population studies.
- d. Any other information deemed pertinent.

(Amended by Ord. 490.181 adopted 8-7-79)

#### C. FILING FEE

When a petition to change property from one district to another is filed, a fee as provided in

Section 879 shall be paid for the purpose of defraying the costs incidental to the proceeding.

D. DEPARTMENT INVESTIGATION

The Department of Resources and Development shall study the proposed amendment and shall provide information necessary for action consistent with the intent of this Division and the General Plan, except that in the case of amendments to the Zoning Division text and amendments resulting from changes to the General Plan such study and information shall be the responsibility of the Planning Department.

(Amended by Ord. T-252 adopted 12-9-80)

E. NOTICE OF COMMISSION PUBLIC HEARING

1. The Director shall set all proposals for amendments for public hearing before the Commission not less than fifteen (15) nor more than forty (40) days after the verification of the proposal, or after the adoption of a Resolution of Intention by the Board of Supervisors or the Commission.

(Amended by Ord. T-252 adopted 12-9-80)

2. Notice of required public hearings shall contain a description of the property under consideration, nature of the proposed change, the time and place of the hearing and other pertinent data and be given by at least one (1) publication in a newspaper of general circulation in the County at least ten (10) days before the hearing.

When the zoning division amendment involves the reclassification of property, additional notice may be given by either one or both, of the following means:

- a. Posting public notices of the proposed amendment not less than ten (10) days prior to the date of the hearing. Such notices shall be posted on all streets within five hundred (500) feet of the external boundaries of the subject property proposed for reclassification.
  - b. Mailing a notice not less than ten (10) days prior to the date of the hearing to owners of property within a radius of three hundred (300) feet from the external boundaries of the property described in the application using for this purpose the last known name and address of such owners as shown on the latest adopted tax roll of the County.
3. Any failure to post public notices or mail notices as aforesaid shall not invalidate any proceedings taken for zoning division amendments.

F. COMMISSION PUBLIC HEARING, RECOMMENDATION AND NOTICE THEREOF

1. The Commission shall, not less than ten (10) days after the publication of legal notice of a public hearing on an amendment, hold said hearing.
2. If, for any reason, testimony of any case set for public hearing cannot be completed on the day set for such hearing, the Commissioner presiding at such public hearing may, before the adjournment or recess thereof, publicly announce the time and place to, and at which, said hearings will be continued and such announcement shall serve as sufficient notice of such continuance and without recourse to the form of public notice as provided for in Section 878-E.2.

3. Upon the completion of a public hearing, the Commission shall, not later than forty (40) days thereafter, render its decision on the matter so heard. Failure to so act within said forty (40) days shall serve to automatically and immediately refer the whole matter to the Board of Supervisors for such action as it deems warranted under the circumstances. In the event of such failure on the part of the Commission to act, the Director shall immediately deliver to the Board of Supervisors all of the records of the matter involved.
4. The recommendation for approval of any amendment shall be by resolution of the Commission carried by the affirmative votes of not less than a majority of its total membership. A resolution for recommendation which receives a majority vote of the members present and voting but not a majority vote of the total voting members of the Commission may, with the consent of the applicant, if any, and by majority vote of the members present be continued until the next regular or special meeting of the Commission; however, if the majority of the members present do not vote to continue the matter or the applicant does not consent thereto, then the action shall constitute disapproval. A resolution for approval of any amendment which fails to carry by reason of no votes of a majority of the members present shall be deemed a disapproval.
5. The Commission shall announce and record its action by formal resolution. Said resolution shall be filed with the Board and a copy thereof shall be mailed to the applicant at the address shown on the application.
6. Not later than ten (10) days after final action by the Commission on an application, notice of the decision shall be mailed to the applicant at the address shown on the application.
7. A decision of the Commission recommending approval is advisory and a hearing shall automatically be scheduled before the Board for final action. Exception: Where a majority vote of the Commissioners voting is for denial, the Commission's decision shall be final unless appealed to the Board within fifteen (15) days after its decision. The appeal shall be made by filing with the Clerk of the Board a written notice of appeal which shall state the reasons therefor.

(Amended by Ord. 490.84 adopted 4-10-73)

8. An appeal may be initiated by the applicant, an interested party, the Director of Planning, the Director of Resources and Development, or by any member of the Board.

(Amended by T-252 adopted 12-9-80)

#### G. NOTICE OF BOARD PUBLIC HEARING

The hearing date of the Board public hearing should be set by the Clerk of the Board of Supervisors for not less than fifteen (15) or more than forty (40) days after the filing of the Commission's resolution by the Board.

Notice shall be given as provided in Section 878-E.2, above.

(Amended by Ord. 490.181 adopted 8-7-79)

#### H. BOARD PUBLIC HEARING, DECISION AND NOTICE THEREOF

The Board shall, not less than ten (10) days after legal notice of a public hearing on a proposed amendment, hold said public hearing.

The Board may approve the proposed amendment and enact it into Ordinance, or disapprove it. The Board shall not substantively alter the proposed amendment without referral back to the Commission unless said alteration was previously considered by the Planning Commission during its hearing. An additional hearing is unnecessary and shall be optional. A copy of the decision shall be mailed to the applicant at the address on the application. The decision shall be made within fifteen (15) days of the hearing. When the proposed amendment is referred back to the Commission, the Commission shall render a report to the Board within forty (40) days of such referral and the Board shall render its decision within forty (40) days of the receipt of the report of the Commission. Failure of the Commission to report within forty (40) days after the referral shall be deemed to be approval of the proposed alteration.

(Amended by Ord. 490.181 adopted 8-7-79)

I. APPEAL OF DENIAL

1. The Board, not more than forty (40) days after the denial by the Commission, shall hear such appeal after giving notice pursuant to Section 878-E.2.

(Amended by Ord. 490.181 adopted 8-7-79)

2. The Board shall refer any proposed reversal of such denial back to the Commission for a report.
3. The Commission shall render such report to the Board within forty (40) days of such referral.
4. The Board shall render its decision within forty (40) days of the receipt of the report from the Commission.

J. REAPPLICATION FOR ZONING DIVISION AMENDMENT

No person, including the original applicant, shall reapply for the same change of zone on the same lot or lots within a period of one (1) year from the date of the final decision on such previous application unless such decision is a denial without prejudice.

- K. Appeals, if any, to a court of competent jurisdiction shall be made within thirty (30) days after the final decision by the Board.

L. CONDITIONAL ZONING

(Added by Ord. 490.61 adopted 5-12-70)

1. The Board may impose conditions to the zoning reclassification of property, to be given an appropriate designation on the zone map, where said conditions are essential to: 1) protect the community from potentially deleterious effects of certain uses permitted in the proposed district, or 2) where said conditions are required to adjust the proposed use to the community's need for facilities to meet the public service demands created by the proposed development. If conditions to zoning are imposed, a Site Plan Review shall be required prior to development, as provided in Section 874 of this Division.

(Amended by Ord. 490.192 adopted 12-3-79)

2. Conditions considered within the scope of this Section are those related to:

- a. Access, circulation and parking.
- b. Street dedication where uses of proposed zone substantially contribute to such requirement.
- c. Street improvement where uses of proposed zone substantially contribute to such requirement.
- d. Lot coverage, building height and bulk, and population density.
- e. Special yards, spaces, and buffers including fences and walls.
- f. Landscaping.
- g. Noise, lighting, odors, and vibration.
- h. Outdoor advertising.
- i. Limitations and prohibitions on the number and type of uses permitted subject to the provisions of Section 878-L.4 below.

(Added by Ord. 490.192 adopted 12-3-79)

- j. Such elements as may require regulation in order to conform with the intent and purpose of this Division.

3. Conditions outside the scope of this Section are those related to:

- a. Time limits within which uses must be developed or reversion to original zoning.
- b. Any provision for automatic reversion to a preceding zone classification.
- c. Termination of nonconforming uses.

4. Conditions to prohibit uses or to limit the number and type of uses pursuant to Section 878-L.2i above shall be subject to the following provisions.

- a. Such conditions shall not be imposed without the consent of the property owner(s) or the authorized representative of the property owner(s) unless such conditions are necessary to achieve zoning consistency upon General Plan adoption.

(Amended by Ord. T-011-265 adopted 11-16-82)

- b. The Board, when imposing such conditions, shall specifically identify the uses to be prohibited or limited. The Board shall also make a finding that said conditions are essential to protect the community and nearby properties from adverse impacts which could result from the development of such uses.

(Added by Ord. 490.192 adopted 12-3-79)

M. OVERLAY ZONE DISTRICTS

(Added by Ord. 490.190 adopted 11-5-79)

1. An overlying zoning designation may be adopted concurrently or subsequent to adoption of the underlying district.
2. When coupled with the underlying zones, overlying districts actually create an additional series of zoning districts. They do not constitute conditional zoning; however, conditions of zoning may be applied as with any other zoning district.