
Specific Procedures

8.1 Public Hearings

8.1.1 Public Hearing Notices

Section 8:

Public hearings shall be noticed, scheduled, held, and decided pursuant to applicable State statute, City Code and City Bylaws.

(1) **Public Notice**

A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the city at least ten days prior to the day of the hearing.

(2) **Mailed Notice**

When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates.

For the purpose of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

(b)

Decisions

If the public hearing is related to a specific application (CUP, variance, subdivision, vacation, etc.) the decision shall be in writing, shall be accompanied by findings based upon the record and shall be provided to interested parties as required by State statute and City Code and as determined appropriate by the City.

8.1.2 Shoreland Notice of Decisions

For applications within the Shoreland Districts, notice of decisions shall be conducted as noted in Section 3.2.2 (c)(7) of the Unified Development Ordinance.

8.1.3 Floodplain Notice of Decisions

For applications within Floodplain Districts, notice of the decision shall be conducted as noted in Section 3.2.1 of the Unified Development Ordinance.

8.1.4 MRCCA Notice of Decisions

For applications within Mississippi River Corridor Critical Area Districts, notice of the decision must be sent to the Commissioner of the Department of Natural Resources pursuant to Minn. Stat. § 1116G.15.

8.2 Comprehensive Planning

8.2.1 Purpose and Intent

The City Council hereby undertakes to carry on comprehensive study and planning as a continuing guide for land use and development legislation within the municipality. For this purpose the City Council has adopted a Comprehensive Plan for the City of Brooklyn Center, and designates the Planning Commission to aid in such planning.

The City may, either by its own initiative or by petition of a property owner, consider amendments to the formal text of the Comprehensive Plan or to the Comprehensive Plan Land Use Map. This subsection outlines the procedures for consideration of these amendments.

8.2.2 Procedures

Proceedings for amending the comprehensive plan shall be initiated by at least one (1) of the following three (3) methods:

- (1) By application an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed.
- (a) (2) By recommendation of the Planning Commission.
- (3) By action of the City Council.

For applications by an owner or owners of property, the following steps apply:

- (b) (1) An application for a Comprehensive Plan Amendment shall be initiated by the owner of the property or their authorized agent. The applicant shall fill out and submit an application to the Secretary of the Planning Commission, copies of which are available at the municipal offices, together with a fee in an amount as set forth by City Council resolution.
- (2) In accordance with Minn. Stat. § 15.99, the City shall review the application and notify the subdivider upon submittal whether or not the application is complete. The plat application shall not be officially submitted and considered complete until all the information requirements are complied with.
- (3) The application shall be reviewed by the City staff and reports concerning the application shall be submitted to the Planning Commission for its consideration within 30 days of receipt of all material required by this Unified Development Ordinance for review of the application.
- (4) The application shall be referred to the Planning Commission for public hearing, study and report in accordance with the public hearing requirements detailed in Section 6 of this Unified Development Ordinance. The City Council may not act upon the application until it has received the recommendation of the Commission, or until such time has elapsed as pursuant to Minn. Stat. § 15.99 from the date of the receipt of a complete application.
- (5) The Planning Commission shall report its recommendation to the City Council following the receipt of a complete application.
- (6) The application and recommendation of the Planning Commission shall be placed on the agenda of the City Council following the recommendation of the Planning Commission.
- (7) The City Council shall make a final determination of the application with or without the recommendation by the Planning Commission.
- (8) The Secretary of the Planning Commission, following the Commission's action upon the application, and the City Clerk, following the City Council's action upon the application, shall give the applicant a written notice of the action taken. A copy of this notice shall be kept on file as a part of the permanent record of the application.

8.2.3 Adoption

The City Council may by resolution adopt and amend the comprehensive plan or portion thereof.

Except for amendments to permit affordable housing development, a resolution to amend or adopt a comprehensive plan must be approved by a two-thirds vote of all of the members.

- (a) Amendments to permit an affordable housing development are approved by a simple majority of all of the members. For purposes of this subdivision, "affordable housing development" means a development in which at least 20 percent of the residential units are restricted to occupancy for at least ten years by residents whose household income at the time of initial occupancy does not exceed 60 percent of area median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development, and with respect to rental units, the rents for affordable units do not exceed 30 percent of 60 percent of area median income, adjusted for household size, as determined annually by the United States Department of Housing and Urban Development.
- (b)

8.3 Amendments to the Unified Development Ordinance and the Official Zoning Map

8.3.1 Purpose

The City Council finds that effective maintenance of the comprehensive planning and land use classifications is enhanced through uniform and equitable evaluation of periodic proposed changes to this Unified Development Ordinance; and for this purpose the City Council has established a rezoning evaluation policy and review guidelines.

8.3.2 Policy

It is the policy of the City that:

- (a) **Zoning classifications must be consistent with the Comprehensive Plan, and**
- (b) **Rezoning proposals shall not constitute "spot zoning", defined as a zoning decision which discriminates in favor of a particular landowner, and does not relate to the Comprehensive Plan or to accepted planning principles.**

8.3.3 Procedure

Each amendment or proposal will be considered on its merits, measured against the above policy and against these guidelines which may be weighed collectively or individually as deemed by the City.

A rezoning application may be initiated by the City Council, the Planning Commission, or by petition by any person with a legal or equitable interest in a particular property.

Amendments initiated by City Council or Planning Commission.

- (a) (1) The City Council or the Planning Commission may initiate amendments to the text of the zoning ordinance or to the zoning classification of specific properties in the manner provided in Minnesota Statutes, Section 462.357.

(b) Amendments initiated by application.

- (c) (1) The applicant shall fill out and submit an application to the Secretary of the Planning Commission, copies of which are available at the municipal offices, together with a fee in an amount as set forth by City Council resolution.
- (2) In accordance with Minn. Stat. § 15.99, the City shall review the application and notify the subdivider upon submittal whether or not the application is complete. The plat application shall not be officially submitted and considered complete until all the information requirements are complied with.

(d) The application shall be reviewed by the City staff and reports concerning the application shall be submitted to the Planning Commission for its consideration after receipt of all material required by this Unified Development Ordinance for review of the application.

- (1) The application shall be referred to the Planning Commission for public hearing, study and report in accordance with the public hearing requirements detailed in Section 6 of this Unified Development Ordinance. The City Council may not act upon the application until it has received the recommendation of the Commission, or until such time has elapsed as pursuant to Minn. Stat. § 15.99sixty from the date of the receipt of a complete application.
- (e) (2) The Planning Commission shall report its recommendation to the City Council following the receipt of a complete application.

(f) The application and recommendation of the Planning Commission shall be placed on the agenda of the City Council following the recommendation of the Planning Commission, or in the event the Commission has failed to make a recommendation, until such time has elapsed as pursuant to Minn. Stat. § 15.99 from receipt of a complete application.

The City Council shall make a final determination of the application following the recommendation by the Planning Commission, or in the event of an extension, one hundred twenty (120) days, unless the deadline for action is waived, in writing, by the applicant. Failure to make a final determination of the application after the applicable time period shall result in approval of the request.

- (1) The City Clerk, following the City Council's action upon the application, shall give the applicant a written notice of the action taken. A copy of this notice shall be kept on file as a part of the permanent record of the application.

- (2) **The applicant or his agent shall appear at each meeting of the Commission and of the City Council during which the application is considered. Furthermore, each applicant shall provide for the Commission or the City Council, as the case may be, the maps, drawings, plans, records or other information requested by the Commission or the City Council for the purpose of assisting the determination of the application.**

8.3.4 Policy for Amendments

Recommendations of the Planning Commission and final determinations of the City Council shall be supported by findings addressing the relationship of the proposed amendment to the following policies:

Is there a clear and public need or benefit?

Is the amendment or proposal consistent with and compatible with surrounding land use classifications?

(a)

Can all permitted uses in the proposed zoning district be contemplated for development of the subject property?

(b)

(c)

Have there been substantial physical or zoning classification changes in the area since the subject property was zoned?

(d)

In the case of City-initiated rezoning proposals, is there a broad public purpose evident?

(e)

Will the subject property bear fully the Unified Development Ordinance development restrictions for the proposed zoning districts?

(f)

(g)

Is the subject property generally unsuited for uses permitted in the present zoning district, with respect to size, configuration, topography or location?

(h)

Will the rezoning result in the expansion of a zoning district, warranted by:

(1) Comprehensive Planning;

(2) The lack of developable land in the proposed zoning district; or

(i)

(3) The best interests of the community?

Does the proposal demonstrate merit beyond the interests of an owner or owners of an individual parcel?

8.3.5 Adoption

A majority vote of all members of the Council shall be required to adopt any amendments to this Unified Development Ordinance.

The adoption or amendment of any part of the Unified Development Ordinance that changes all or part of the existing classification of a Zoning Use District from residential to either commercial or industrial requires a two-thirds majority vote of all of the members of the City Council.

(a)

The City Council may alter the amendment proposed, but if the alteration results in a modification of the Zoning Map filed at the time of the first publication of notice of the hearing, it shall not be made until 10 days after notice has been given by mail to the owner of the property to be zoned that an amendment is being considered and may be adopted which is different from that shown on the original Zoning Map filed in support of the requested zoning change.

(b)

(c)

8.3.6 Review of Rezoning

Where property within the municipality has been rezoned for a less restrictive land use upon petition of the owner or his agent pursuant to the provisions of this Unified Development Ordinance, and where no structural work thereon has commenced within two (2) years of the date of the rezoning action by the City Council, the Planning Commission may review the zoning classification of the property in the light of the Comprehensive Plan and make appropriate recommendations to the City Council which may include the recommendation that the subject property be rezoned to permit a more restrictive use in conformance with the provisions of the Comprehensive Plan.

