

ARTICLE 31 PUBLIC HEARING PROCEDURES

Sec. 31.1. Applicability.

Any public hearing required by this zoning ordinance for an application for rezoning (amendment to the official zoning map), conditional use, variance (whether filed individually or concurrently with another application), and administrative appeal shall be called and conducted in accordance with the procedures of this Article. Nothing contained in this Article shall be construed as prohibiting a presiding officer from conducting a public hearing in a fair, orderly, and decorous manner.

Sec. 31.2. Presiding Officer.

The presiding officer shall preside over the public hearing. In the case of the Mayor and City Council, the Mayor shall preside, or in the absence of the Mayor, the Mayor Pro-Tem shall preside. If neither is present to preside, another member of the Mayor and City Council shall be designated to preside. In the case of the Planning Commission, the Chair shall preside, or in the absence the Vice-Chair. If neither the Chair nor Vice-Chair of the Planning Commission is present to preside, another member of the Planning Commission shall be designated to preside.

Sec. 31.3. Opening of Public Hearing.

(a) The presiding officer shall indicate that a public hearing has been called on one or more applications made, shall summarize the processes required by this zoning ordinance, and shall open the public hearing.

(b) Thereupon, the presiding officer shall call the first case and the hearing body shall consider each application on an individual basis in succession as printed on the published agenda or as otherwise approved by the hearing body; provided, however, that the presiding officer may at his or her discretion call and consider more than one application simultaneously when more than one application involves the same piece of property, and when proceedings would be efficiently completed by combining separately required public hearings and discussing more than one scheduled matter as a single group of applications, subject to the limitations on decisions involving simultaneous processing of applications as specified in this zoning ordinance.

Sec. 31.4. Report of Zoning Administrator.

Upon opening the public hearing, the presiding officer shall recognize the Zoning Administrator, who shall provide a summary of the application and present any recommendations or results of investigations. In the case of the Mayor and City Council meeting, the Zoning Administrator shall also present the recommendation of the Planning Commission. Upon recognition by the presiding officer, any member of the Mayor and City Council, or Planning Commission as the case may be, may ask questions of the Zoning Administrator.

Sec. 31.5. Applicant.

(a) When an individual application comes up for hearing, the presiding officer may ask for a show of hands of those persons who wish to appear in support of the application. If it appears that the number of persons wishing to appear in support of the application is in excess of that which may reasonably be

heard, the presiding officer may request that a spokesperson for the group be chosen to make presentations.

(b) Following the report of the Zoning Administrator, the presiding officer shall recognize the applicant or his or her agent, spokesperson, or each of them, who shall present and explain the application.

(c) There shall be a minimum time period of ten (10) minutes per application at the public hearing for the proponents to present data, evidence, and opinions; however, the Mayor and City Council or Planning Commission, whichever is holding the public hearing, shall not be obligated to provide the full ten-minute period to the proponents if they elect not to use that much time. Any member of the Mayor and City Council, or Planning Commission as the case may be, upon recognition by the presiding officer may ask questions of the applicant or agent of the applicant, or both.

Sec. 31.6. Public.

(a) At the conclusion of the applicant's presentation, the presiding officer shall initiate the public comment portion of the public hearing.

(b) When an individual application comes up for review, the presiding officer may inquire if any member of the public wishes to ask any question(s), make any comment(s), and/or otherwise appear in opposition to the application. If it appears that the number of persons wishing to ask questions, make comments, or otherwise appear exceeds that which may reasonably be heard, the presiding officer may request that a spokesperson be selected for the group.

(c) There shall be a minimum time period of ten (10) minutes per application at the public hearing for the opponents to present data, evidence, and opinions and ask questions; however, the Mayor and City Council, or Planning Commission as the case may be, shall not be obligated to provide the full ten-minutes per application to the opponents if they elect not to use that much time.

(d) Prior to speaking, each speaker will identify him or herself and state his or her current address. Each speaker may speak only to the proposed application under consideration and shall address his or her remarks only to the hearing body. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed application under consideration. The presiding officer may limit or refuse a speaker the right to continue if, after first being cautioned, the speaker continues to violate this procedure.

(e) Upon recognition by the presiding officer, any member of the Mayor and City Council, or Planning Commission as the case may be, may ask questions of a member of the public giving testimony.

(f) The Mayor and City Council, or Planning Commission as the case may be, may ask questions and answer questions asked during the public portion of the hearing. The Mayor and City Council, or Planning Commission as the case may be, may defer questions to the applicant to be answered during rebuttal.

Sec. 31.7. Applicant's Rebuttal.

At the conclusion of public testimony, or upon the expiration of time allotted for public testimony, the applicant or his or her agent, or both, shall be allowed a short opportunity to answer questions, rebut the testimony of the public, and provide final comments and remarks. The time devoted to any such

rebuttal shall be counted toward the total ten (10) minutes allotted to the applicant under this Article for initial presentation, if such a time limit is set by the presiding officer. Any member of the Mayor and City Council, or Planning Commission as the case may be, upon recognition by the presiding officer may ask questions of the applicant, his or her agent, or both.

Sec. 31.8. Close of Hearing.

After the foregoing procedures have been completed, the presiding officer will indicate that the public hearing is closed. Upon the closing of the public hearing, the applicant or his agent and any member of the public shall no longer address the Mayor and City Council, or Planning Commission as the case may be, in any way, including hand waving or motions for attention; provided, however, the presiding officer may, in his or her discretion, reopen the public hearing for a limited time and purpose.

Sec. 31.9. Decision.

(a) After the public hearing is closed, the Mayor and City Council, or Planning Commission as the case may be, may either vote upon the application or may delay its vote to a subsequent meeting, subject to the limitations of this zoning ordinance, provided that notice of the time, date and location when such application will be further considered shall be announced at the meeting during which the public hearing is held.

(b) After hearing evidence, in making a recommendation or decision, the Planning Commission and the Mayor and City Council, respectively, shall apply the evidence to the criteria specified in this zoning ordinance for the application in question and other considerations and recommendations as may be considered appropriate. It shall be the duty of the applicant to carry the burden of proof that approval of the proposed application will promote the public health, safety, morality or general welfare.

(c) If the hearing body determines from the evidence presented by the applicant has shown that the proposed application promotes the health, safety, morals, and general welfare under applicable criteria, then the application shall be granted, or favorably recommended in the case of the Planning Commission, subject to those reasonable conditions as may be imposed by the Mayor and City Council on its own initiative or as recommended by the Zoning Administrator and/or Planning Commission. Otherwise, such application shall be denied.

(d) In cases where one or more companion applications are submitted and the Mayor and City Council attaches conditions to the application, such conditions shall, unless specifically stated otherwise, become conditions of approval for each companion application.