

**CHAPTER 1123**  
**Zoning Text and Map Amendments**

1123.01	<b>Purpose.</b>	1123.03	<b>Zoning map and text amendment procedure.</b>
1123.02	<b>Initiation of zoning amendments.</b>	1123.04	<b>Standard of review criteria.</b>
		1123.05	<b>Action by Council.</b>

**1123.01 PURPOSE.**

City Council may amend the text of this Code or the zoning map pursuant to the procedure set forth in this Section. The purpose of a text or map amendment is to make adjustments due to changed conditions, changes in public policy, recommendations of the Comprehensive Master Plan, or that are necessary to advance the health, safety, and general welfare of the City. (Ord. 2022-24. Passed 5-24-22.)

**1123.02 INITIATION OF ZONING AMENDMENTS.**

(a) Zoning Text Amendment. Zoning Code text amendments may be initiated in the following manner:

- (1) City Council on its own initiative; or
- (2) Planning Commission may recommend a zoning text amendment to City Council for their consideration; or
- (3) A Middleburg Heights property owner may request a zoning text amendment upon a properly submitted application to City Council for their consideration.

(b) Zoning Map Amendment. Zoning map amendments may be initiated in the following manner:

- (1) City Council; or
- (2) Planning Commission may recommend a zoning map amendment to City Council for their consideration; or
- (3) A Middleburg Heights property owner may request a zoning map amendment upon a properly submitted application to City Council for their consideration.

(Ord. 2022-24. Passed 5-24-22.)

**1123.03 ZONING MAP AND TEXT AMENDMENT PROCEDURE.**

(a) Property Owner Initiated Submittal Requirements. After satisfying the required pre-application conference requirement, written applications requesting a zoning map amendment or zoning code text amendment shall be filed with the Clerk of Council and shall contain, at a minimum, the following information set forth in this Section.

- (1) Pre-application conference. Each applicant seeking to submit an application for a zoning map amendment or zoning code text amendment shall meet with the Building Commissioner to provide an overview of the requested amendment and to ensure the application contains all of the required information.

- (2) Zoning Map amendment application contents.
    - A. The name, address and contact information of the applicant. If the applicant is not the owner of the land involved, written authorization from the owner consenting to the application shall be included.
    - B. A metes and bounds legal description of the land involved, including the County Auditor's permanent parcel number and any sub lot number.
    - C. Scaled drawings showing the dimensions of the land involved and showing its relationship to public streets and to land surrounding it; the locations and dimensions of present and proposed buildings on the land involved; and the locations, dimensions and use of present buildings on land surrounding, within 500 feet, the land to be rezoned.
    - D. A written description of the present and proposed use of the land and buildings upon the land to be rezoned.
    - E. A written explanation how the proposed zoning map amendment supports the applicable standard of review criteria set forth in Section 1123.04.
  - (3) Zoning Code text amendment application contents.
    - A. The name, address and contact information of the applicant.
    - B. A written explanation how the proposed zoning text amendment supports the applicable standard of review criteria set forth in Section 1123.04.
  - (4) Application fee.
    - A. The application for a zoning map amendment or zoning code text amendment by a property owner shall be filed with a non-refundable fee in an amount established by City Council.
    - B. The Clerk of Council shall transfer the property owner initiated application fee to the Director of Finance who shall deposit the fee into the General Fund.
- (b) City Council or Planning Commission Initiated Zoning Amendments. When a zoning map amendment or zoning code text amendment is initiated by either Planning Commission or City Council, the proposed zoning amendment shall be documented in writing and include an explanation how the proposed zoning text amendment supports the applicable standard of review criteria set forth in Section 1123.04.
- (c) Referral of the Proposed Zoning Amendment. Upon the filing of a property owner initiated zoning amendment application or a Planning Commission or City Council initiated zoning amendment motion, the Clerk of Council, the following actions shall be undertaken:
- (1) The Clerk of Council shall place the matter on the agenda for the next regular Council meeting following the filing of the application.
  - (2) Upon receiving the proposed zoning amendment at the next regular Council meeting as set forth in this Section, City Council shall refer the application to the Zoning and Building Codes Committee of Council for its consideration.
- (d) Preparation of Zoning Amendment Legislation.
- (1) The Mayor, the Zoning and Building Codes Committee of Council or a member of Council may request that the Director of Law prepare legislation which will authorize the proposed zoning amendment.

- (2) If, after ninety days following the date on which a property owner initiated application is filed, or the motion date of a Planning Commission or City Council initiated zoning amendment, no request has been made to the Director of Law to prepare such legislation pursuant to such requested zoning amendment, the Clerk of Council shall notify the applicant, Planning Commission or City Council that no action has been taken on the application.

(e) Referral of Zoning Amendment Legislation to the Planning Commission. Upon the introduction of legislation drafted pursuant to a proposed amendment to the zoning code text or zoning map, and upon the first reading of such legislation by Council, such legislation shall be referred to the Planning Commission for its consideration and recommendation.

(f) Planning Commission Public Hearing Procedure.

- (1) Zoning amendment legislation shall be acted upon within seventy-five days from the date of the next regularly scheduled meeting of the Commission following the referral of the matter to it, unless a longer time is allowed by Council. If the Commission fails to take final action within the time allotted, it shall be deemed to have issued no recommendation on such matter.
- (2) The Commission may recommend to approve a proposed zoning text or map amendment ordinance, either in whole or in part, modify it or disapprove it. Such formal recommendation action shall be upon motion passed by a majority of the members of the Commission.
- (3) Notice Requirements. Before the Commission provides a recommendation to Council on a proposed text or map amendment, it shall give notice in general terms of the matter under consideration by posting such notice at the City Hall and by publishing it once in a newspaper of general circulation at least ten days prior to such final action.
- (4) If the proposal is one to rezone or redistrict ten or fewer parcels of land, as listed on the tax duplicate, such notice shall also be mailed by first-class mail to the owners of property within, contiguous to, and directly across the street from, such parcel or parcels to the addresses of such owners appearing on the County Auditor's current tax list or the County Treasurer's mailing list.
- (5) The failure of delivery of such notice shall not invalidate any such zoning text or map amendment ordinance. The Commission shall inspect all sites which are proposed to be rezoned or redistricted pursuant to all applicable Ohio open meeting rules.
- (6) The action or failure to provide a recommendation to City Council on the referred proposed zoning amendment shall be transmitted to the Clerk of Council who shall place the legislation on the agenda for further consideration by Council at the next regular meeting of Council following the transmittal.
- (7) Council shall not establish a date for a public hearing until after receipt of such recommendation transmittal from the Planning Commission.
- (8) The public hearing procedure set forth in this division shall be followed for all Stage 2 PMU public hearings before the Planning Commission.

(g) City Council Public Hearing Procedure for a Zoning District Amendment, a Zoning Text Amendment and a PMU Application.

- (1) Before any ordinance, measure or regulation to amend or change a zoning regulation, the Zoning Map, or a Stage 2 PMU application may be passed, Council shall hold a public hearing thereon.
- (2) It shall publish a notice of such hearing in a newspaper of general circulation within the City, adequately describing the nature of the pending legislation or PMU Application, not less than fifteen days prior to the public hearing. During the fifteen days prior to the public hearing, the text or a copy of the text of such ordinance, PMU application, measure, regulation or proposed change, together with the maps, drawings or plans or copies thereof forming a part of, or referred to in, such ordinance, measure, regulation or proposed change, and the maps, plans and reports submitted by the Planning Commission, shall be on file for public examination in the office of the Clerk of Council.
- (3) If the ordinance, measure, or regulation intends to rezone or redistrict ten or fewer parcels of land, as listed on the tax duplicate, or if the public hearing is for a Stage 2 PMU application, written notice of the hearing shall be mailed by the Clerk of Council, by first class mail, at least fifteen days before the date of the public hearing, to the owners of property within and contiguous to and directly across the street from such parcel or parcels, to the addresses of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list, and to such other persons who or which may be specified by Council. The failure of delivery of such notice shall not invalidate any such ordinance, measure or regulation.
- (4) On-site posting required. Within ten days prior to the required public hearing before Council held as a result of a request for a zoning district change upon application of a property owner or as a result of a PMU application being submitted, the Building Commissioner shall cause a sign to be posted upon the site which is the subject matter of such request indicating that a public hearing before Council will be had upon such application and further indicating the time and date of such public hearing. (Ord. 2022-24. Passed 5-24-22.)

**1123.04 STANDARD OF REVIEW CRITERIA.**

(a) Planning Commission and City Council determinations on proposed Zoning Map and Zoning Code text amendments shall, at a minimum, be based on consideration of the following review criteria. Not all criteria may be applicable in each case, and each case shall be determined on its own facts.

- (1) Whether the proposed amendment corrects an error or meets the challenge of some changing conditions, trends, facts, new planning concepts or substantially changed economic conditions since the time that the original text or map designations were established.
- (2) Whether the proposed amendment is consistent with the Comprehensive Master Plan or other applicable City planning documents.
- (3) Whether the proposed amendment is consistent with the purposes of this Zoning Code.
- (4) Whether the proposed amendment, if amending the Zoning Map, is consistent with the stated purpose of the proposed zoning district

- (5) Whether, and the extent to which, the proposed amendment addresses a demonstrated community need.
- (6) Whether the proposed amendment will protect the health, safety, morals, and general welfare of the public.
- (7) Whether the proposed amendment is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated
- (8) Whether the proposed amendment will ensure efficient development within the City.
- (9) Whether the proposed amendment will result in a logical and orderly development pattern.
- (10) Whether the proposed amendment is likely to result in significant adverse impacts upon other property in the vicinity of the subject tract.  
(Ord. 2022-24. Passed 5-24-22.)

#### **1123.05 ACTION BY COUNCIL.**

(a) City Council shall review a proposed Zoning Map amendment, Zoning Code text amendment or PMU application during the required public hearing. In reviewing the proposed amendment, City Council shall, at a minimum, consider any staff reports and the standard of review criteria set forth in this Section.

(b) Within sixty days of the close of the public hearing, City Council shall adopt, adopt with some modification, deny the zoning text amendment, Zoning Map amendment, or PMU ordinance. In the event City Council denies or modifies the recommendation of the Planning Commission, it shall only do so by no less than a two-thirds vote, or more, of the members present of City Council.

(c) Any such Zoning Map amendment, Zoning Code text amendment or PMU ordinance may be amended by a majority vote at any time prior to the passage thereof by Council, without further notice, public hearing, or postponement, if such amendment is germane to the subject matter.  
(Ord. 2022-24. Passed 5-24-22.)