
Sec. 12-9. REZONINGS AND AMENDMENTS TO THE CODE

- (1) **Definitions** - The definitions provided for in section 20.1-11 of the Clay County Land Development Code (the Code) shall apply and are incorporated as if fully set forth herein. In addition, the following definitions shall apply to this Article:
- (a) *Amendment to the Code* means the procedures by which an ordinance of the County is enacted which results in a change to the text of the Code.
 - (b) *Applicant* means any owner, or individual legally authorized by the owner of real property to represent such owner's interest in regard to the Rezoning of real property.
 - (c) *Clay County Land Development Regulations (LDR)* means ordinances enacted by the Board for the regulation of any aspect of land development and includes any concurrency action, zoning, rezoning, subdivision, environmental, or sign regulation.
 - (d) *LDR Zoning Atlas* means the series of official maps of Clay County which depict the boundaries of the various zoning districts assigned to the unincorporated lands of Clay County, Florida and as provided for in section 20.3-2 of the Code.
 - (e) *Local Planning Agency* means the Clay County Planning Commission.
 - (f) *Rezoning* means the procedures by which an ordinance of the County is enacted which results in a change to the LDR Zoning Atlas. Administrative Rezoning means Rezoning initiated by the Board or the Local Planning Agency. Map Error Rezoning means Administrative Rezoning which corrects scrivener's errors in the LDR Zoning Atlas or corrects zoning classifications assigned in error and inconsistent with the Comprehensive Plan.
 - (g) *Zoning Department* means the Zoning Department of Clay County.
 - (h) *Zoning Director* means the Director of the Zoning Department or his or her designee.
- (2) **Initiation of a Rezoning or of an Amendment to the Code** - The Code and the LDR Zoning Atlas may from time to time be amended, supplemented, changed or repealed. The procedures utilized shall be as follows:
- (a) An Amendment to the Code may be proposed by the Board, the Local Planning Agency, or any other department or agency of the County. Any person or Applicant may request the Board to consider an Amendment to the Code.
 - (b) An Administrative Rezoning may be proposed by the Board, the Local Planning Agency, any other department or agency of the County. An Applicant may request a Rezoning; however, no Applicant shall apply for Rezoning of real property (except as agent for an owner) for which he or she does not hold title.
 - (c) All proposals by Applicants for Rezoning shall be submitted in writing to the Zoning Department accompanied by:

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1. A completed application on the form furnished by the Zoning Department;
 2. A legal description of the real property;
 3. A copy of the recorded deed of the real property vesting title in the Applicant;
 4. A minimum standards survey of the real property;
 5. A site plan, if applicable for Rezoning applications for zoning classifications: PCD, PUD, PID, RD OR BSC, as described in Article III of the Code; and
 6. Applicable fees as determined by resolution adopted by the Board.
- (d) All Rezoning applications must initially be determined by the Zoning Department to be consistent with the Comprehensive Plan, as defined in Section 20.3-9 of the Code (the Plan), or be accompanied by an application for a Plan amendment, which if granted would render the proposed Rezoning consistent with the Plan. Any application for rezoning which requires first that the Plan be amended, will not become effective unless and until the referenced Plan amendment is approved by the Board and effective pursuant to provisions of Florida law.
- (e) Until the applicable fee and other charges as outlined in this section of Article II have been paid in full by an Applicant, no action of any type shall be taken on an application for Rezoning.
- (3) **General Criteria for Rezoning Application for Rezoning** - In reviewing the proposed application for Rezoning, the following criteria may be considered along with such other matters as may be appropriate to the particular application:
- (a) Whether the proposed change will create an isolated district unrelated to or incompatible with adjacent and nearby districts;
 - (b) Whether the district boundaries are illogically drawn in relation to the existing conditions on the real property proposed for change;
 - (c) Whether the conditions which existed at the time the real property was originally zoned have changed or are changing, and, to maintain consistency with the Plan, favor the adoption of the proposed Rezoning;
 - (d) Whether the affected real property cannot be used in accordance with existing zoning;
 - (e) Whether the proposed Rezoning application is compatible with and furthers the County's stated objectives and policies of the Plan;
 - (f) Whether maintenance of the existing zoning classification for the proposed Rezoning serves a legitimate public purpose;
 - (g) Whether maintenance of the status quo is no longer reasonable when the proposed Rezoning is inconsistent with surrounding land use;
 - (h) Whether there is an inadequate supply of sites in the County for the proposed intensity or density within the district already permitting such intensity or density.

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- (4) **General Criteria for Rezoning Amendments to the Code** - In reviewing proposed Amendments to the Code, the following criteria may be considered along with such other matters as may be appropriate to the particular application:
- (a) Whether the proposed amendment is necessary as a result of a change of Florida, is corrective in nature, or is necessary to implement the requirements of the Code or the Plan; and
 - (b) The relationship of the proposed change to the policies and objectives of the Plan with consideration as to whether the proposed change will further the purposes and intent of the Code and the Plan.
- (5) **Rezoning Applications--Public Hearing and Notice Requirements for Rezoning Applications before the Local Planning Agency**
- (a) All ordinances enacting Rezoning shall first be heard at a public hearing before the Local Planning Agency at least seven days after the notice for the hearing is published.
 - (b) In the case of a Rezoning initiated by an Applicant the public hearing before the Local Planning Agency shall take place no later than seventy days following the date upon which the Zoning Director determines that a Rezoning application as submitted to the Zoning Department is complete, unless the Applicant requests additional time.
 - (c) For all Rezoning applications, whether an Administrative Rezoning initiated by the Board or a Rezoning initiated by an Applicant, and prior to the hearing before the Local Planning Agency, the Zoning Director shall prepare and furnish to the Local Planning Agency a Site and Development Plan Report, which shall be considered by the Local Planning Agency. Prior to the close of the public hearing, the Applicant, as applicable, shall have the opportunity and the right to respond to testimony or other evidence presented during the public hearing. After the close of the public hearing, the Local Planning Agency may approve the proposed application, approve the proposed application with modifications, or disapprove the proposed application, or continue the hearing in its discretion to an announced time and date certain without the need for republication of notice, and shall make a report of same to the Board.
 - (d) The report and recommendation of the Local Planning Agency shall be advisory only and shall not be binding upon the Board.
 - (e) No Rezoning application will proceed to public hearing before the Local Planning Agency until all publication fees for notices have been paid in full and proof of publication provided prior to the hearing. In the event the publication fee is not paid prior to the Local Planning Agency hearing, the matter shall be readvertised and rescheduled to the next available Local Planning Agency meeting at which Rezoning applications may be heard.
 - (f) All notices of a public hearing before the Local Planning Agency for enacting a Rezoning ordinance shall conform to the requirements of Florida law regarding legal and official

advertisements. The advertisement shall appear in a newspaper that is published at least weekly.

- (g) The notice of the public hearing shall state the intent of the Local Planning Agency to consider a rezoning application and shall specify the time date and place of the public hearing; the title or titles of the proposed ordinance; and the place or places within the County where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.
- (h) Notice of the public hearing before the Local Planning Agency shall be in the form required by the Zoning Department, and shall be published once, at the Applicant's expense. The notice shall be published at least seven days prior to the public hearing before the Local Planning Agency.
- (i) Notice of a public hearing before the Local Planning Agency for enacting a Rezoning ordinance shall be mailed to all owners of real property located within 350 feet of the property line of the real property sought to be rezoned and for Administrative Rezoning, additionally to all owners of real property subject to the Rezoning, as determined by the Property Appraiser's records, and shall state the intent of the Local Planning Agency to consider a Rezoning application, shall specify the time, date and place of the public hearing, the place within the County where such proposed ordinance may be inspected by the public, and shall also advise that interested parties may appear at the meetings and be heard with respect to the proposed ordinance. The notices shall be mailed no later than 15 days prior to the date of the hearing before the Local Planning Agency. One notice containing the dates, times and place of all hearings before the Local Planning Agency and the Board as well as all other required information may be utilized.

(6) Rezoning Applications--Public Hearing and Notice Requirements for Rezoning Real Property before the Board of County Commissioners

In addition to the public hearing before the Local Planning Agency, the proposed Rezoning will be subject to the following public hearing requirements before the Board:

- (a) For Applicant Rezonings, there shall be one public hearing before the Board which shall be held at least ten days after the notice of the public hearing is published. The hearing before the Board shall take place at a regularly scheduled meeting.
- (b) For Administrative Rezonings, there shall be two public hearings held before the Board at its regularly scheduled meetings. One of the hearings before the Board shall be held after 5:00 p.m. The first hearing shall be held at least seven days after the day that the notice for the first public hearing is published. The second hearing shall be held at least ten days after the first hearing and at least five days after the day that the notice for the second public hearing is published.
- (c) Prior to the close of the public hearing or hearings, as applicable, the Applicant, as

applicable, shall have the opportunity and the right to respond to testimony or other evidence presented during the public hearing. After the close of the public hearing or hearings, as applicable, the Board may approve the proposed application, approve the proposed application with modifications, disapprove the proposed application, or continue the public hearing at its discretion to an announced time and date certain without the need for republication of notice.

- (d) No Rezoning application will proceed to public hearing before the Board until all publication fees for notices have been paid in full and proof of publication provided prior to each hearing. In the event the publication fee is not paid prior to the applicable public hearing, the matter shall be readvertised and rescheduled to the next available Board meeting, at which Rezoning applications may be heard.
- (e) All notices of a public hearing for enacting a Rezoning ordinance shall be placed by the Board and conform to the requirements of Florida law for legal and official advertisements regarding size and placement of the notice in a newspaper of general paid circulation in the County. The advertisement shall appear in a newspaper that is published at least five days a week. In addition, the following notice requirements will apply:
 - 1. Publication and mailing of notices for Rezoning initiated by an Applicant:
 - (i) The notices of the public hearings shall state the intent of the Board to consider a Rezoning application and shall specify the time, date and place of the public hearing; the title or titles of the proposed ordinance; and the place or places within the County where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.
 - (ii) Notice of the public hearing before the Board shall be in the form required by the Zoning Department, and shall be published once, at the Applicant's expense. The notice shall be published at least ten days prior to the public hearing before the Board.
 - (iii) Notice of a public hearing before the Board shall be mailed to all owners of real property located within 350 feet of the property line of the real property sought to be rezoned, as determined by the Property Appraiser's records, and shall state the intent of the Board to consider a Rezoning application, shall specify the time, date, and place of the public hearing, the place within the County where such proposed ordinance may be inspected by the public, and shall also advise that interested parties may appear at the meetings and be heard with respect to the proposed ordinance. The notices shall be mailed no later than 15 days prior to the date of the hearing before the Board. This requirement may be satisfied by combining the notice with the Local Planning Agency notice as set forth in Section 12-8(5)(i).

2. Publication and mailing of notices for Administrative Rezoning.

- (i) The notice for the first Board hearing shall be published at least seven days prior to the hearing and the notice for the second Board hearing shall be published at least five days prior to the second hearing. The form of the notice shall be as prescribed by the Zoning Department. The notices of the public hearings shall state the intent of the Board to consider an Administrative Rezoning application and shall specify the time, date and place of the public hearings; the title or titles of the proposed ordinance; and the place or places within the County where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance. The notice shall contain a location map which indicates the area within the local government covered by the proposed ordinance and may be placed in any portion of the newspaper except where legal notices or classified advertisements appear.
- (ii) Notice of the public hearing before the Board shall be mailed to all owners of real property subject to the Rezoning and to all owners of real property located within 350 feet of the property line of the real property sought to be rezoned, as determined by the Property Appraiser's records, and shall state the intent of the Board to consider a Rezoning application, shall specify the time, date and place of the public hearings, the place within the County where such proposed ordinance may be inspected by the public, and shall also advise that interested parties may appear at the meetings and be heard with respect to the proposed ordinance. The notices shall be mailed no later than 15 days prior to the date of the first hearing before the Board. This requirement may be satisfied by combining the notice with the Local Planning Agency notice as set forth in Section 12-8(5)(i).

- (f) The ordinance enacting the proposed Rezoning shall become effective as provided by general law.

(7) **Amendment to the Code--Public Hearing and Notice Requirements for Amendments to the Code before the Local Planning Agency**

Ordinance enacting Amendments to the Code shall be subject to the following public hearing and notice requirements before the Local Planning Agency:

- (a) The ordinance shall first be heard at a public hearing before the Local Planning Agency at least seven days after notice of the public hearing is published.
- (b) Prior to the close of the public hearing, the Applicant, as applicable, shall have the opportunity and the right to respond to testimony or other evidence presented during the public hearing. After the close of the public hearing, the Local Planning Agency may

approve the proposed application, approve the proposed application with modifications, disapprove the proposed application, or continue the public hearings in its discretion to an announced time and date certain without the need for republication of notice, and shall make a report of same to the Board.

- (c) The report and recommendation of the Local Planning Agency shall be advisory only and shall not be binding upon the Board.
- (d) No proposed Amendment to the Code will proceed to public hearing before the Local Planning Agency until all publication fees for advertisements have been paid in full and proof of publication provided prior to each gearing. In the event the publication fee is not paid prior to the Local Planning Agency hearing, the matter shall be readvertised and rescheduled to the next available Local Planning Agency meeting.
- (e) The notice of public hearing before the Local Planning Agency for enacting an Amendment to the Code shall conform to the requirements of Florida law regarding legal and official advertisements. The advertisement shall appear in a newspaper that is published at least weekly.
- (f) The notice of public hearing shall state the intent of the Local Planning Agency to consider an Amendment to the Code and shall specify the time, date and place of the public hearing, the title or titles of the proposed ordinance; and the place or places within the County where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.
- (g) Notice of the public hearing before the Local Planning Agency shall be in the form required by the Zoning Department, and shall be published once, at the Applicant's expense. The notice shall be published at least seven days prior to the public hearing before the Local Planning Agency.

(8) Amendments to the Code--Public Hearing and Notice Requirements for Amendments to the Code before the Board of County Commissioners

In addition to the public hearing before the Local Planning Agency, the proposed Amendment to the Code will be subject to the following hearing requirements before the Board:

- (a) The Board shall hold one public hearing on the proposed Amendment to the Code (excluding an Amendment to the Code which changes the actual list of permitted, conditional, or prohibited uses within a zoning district). The hearing before the Board shall be held at least ten days after the notice of hearing is published. The hearing before the Board shall be held at a regularly scheduled meeting.
- (b) An Amendment to the Code which changes the actual list of permitted, conditional, or prohibited uses within a zoning district shall be heard at two public hearings held before the Board at its regularly scheduled meetings. One of the hearings before the Board shall

be held after 5:00 p.m. The first hearing shall be held at least seven days after the day that the notice for the first public hearing is published. The second hearing shall be held at least ten days after the first hearing and at least five days after the day that the notice for the second public hearing is published.

- (c) No proposed Amendment to the Code will proceed to public hearing before the Board until all publication fees for advertisements have been paid in full and proof of publication provided prior to each hearing. In the event the advertising publication fee is not paid prior to the applicable public hearing, the matter shall be readvertised and rescheduled to the next available Board meeting.
- (d) Prior to the close of the public hearing or hearings, as applicable, the Applicant, as applicable, shall have the opportunity and the right to respond to testimony or other evidence presented during the public hearing. After the close of the final public hearing, the Board may approve the proposed application, approve the proposed application with modifications, disapprove the proposed application, or continue the public hearing in its discretion to an announced time, date and place certain without the need for republication of notice.
- (e) Publication for Amendments to the Code.
 - 1. The notice for the public hearing before the Board (excluding an Amendment to the Code which changes the actual list of permitted, conditional, or prohibited uses within a zoning district) shall state the intent of the Board to consider the proposed Amendment and shall specify the time, date and place of each public hearing; the title or titles of the proposed Amendment to the Code; and the place or places within the County where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance. The notice of the public hearing before the Board shall be in the form prescribed by the Planning Department, and shall be published once at least ten days prior to the public hearing before the Board.
 - 2. The notice for the first public hearing before the Board for an Amendment to the Code which changes the actual list of permitted, conditional, or prohibited uses within a zoning district shall be published at least ten days prior to the hearing and the notice for the second Board hearing shall be published at least five days prior to the second hearing. The form of the notice shall be as prescribed by the Planning Department. The notices of the public hearings shall state the intent of the Board to consider an Amendment to the Code, and shall specify the time, date and place of the public hearings; then title or titles of the proposed ordinance; and the place or places within the County where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance. The notice shall be no less than two columns wide by ten inches long, the headline of the notice shall be no less than 18 point type, and the notice may be placed in any portion of the newspaper except where legal notices or classified advertisements appear.

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- (a) The Ordinance enacting the proposed Amendment to the Code shall become effective as provided by general law.

(9) Sign Requirements for Rezonings

- (a) All Rezonings with the exception of Map Error Administrative Rezonings shall require signs as follows:

1. One or more signs shall be posted on the property to be rezoned, not less than twenty-one (21) days in advance of the date of the public hearing held before the Local Planning Agency. The sign or signs shall be obtained from the Zoning Department at a cost of \$20.00 for each sign. Such sign or signs shall be erected in full view of the public at intervals of not more than every five hundred (500) feet along all streets on which the land which is the subject of the application has frontage, and shall be maintained by the Applicant, as applicable, until the conclusion of all public hearings including the public hearing held before the Board. The sign or signs to be posted on said land shall measure at least 28 inches in width and 22 inches in height and shall contain substantially the following language in day glow orange with four (4) inch black lettering:

REZONING
A PUBLIC HEARING CONCERNING REZONING THIS PROPERTY
TO _____ WILL BE HELD ON _____, AT _____
P.M. IN THE CLAY COUNTY ADMINISTRATION BUILDING.

2. After the public hearing before the Local Planning Agency, the Applicant, as applicable, shall change the date and time on the signs to the date and time of the public hearing to be held before the Board, using materials provided by the Zoning Department.
3. In the event more than ten signs are required, which may cause undue hardship on the Applicant to post and maintain, the Applicant may seek permission of the Zoning Department to instead post large signs 4 feet by 8 feet minimum at the entrances to the applicable property and at conspicuous places on or adjacent to the applicable property. Large signs will be similar to color and wording as the smaller official zoning signs but may include a detailed map of the area to be rezoned and shall be constructed by the Applicant and approved by the Zoning Department prior to erection. Where such land does not have frontage on a public street, such signs shall be erected on the nearest street right-of-way with an attached notation indicating generally the direction and distance to the land for which rezoning is sought. Said signs shall be maintained by the Applicant, as applicable, until the conclusion of all public hearings including any held before the Board. After the public hearing before the Local Planning Agency, the Applicant, as applicable, shall change the date and time on the signs to the date and time of any and all public hearings to be held before the Board.

- (b) Proposed Map Error Rezonings shall not require the posting of signs at or near the

affected property.

(10) Limitation on the Rezoning of Property

- (a) Whenever the Board has denied an application for Rezoning, the Local Planning Agency and the Board shall not thereafter;
 - 1. Consider an application for the Rezoning of any part or all of the same property to the same zoning district for a period of twelve months from the date of such action.
 - 2. Consider an application for any other kind of Rezoning on any part or all of the same property for a period of six months from the date of such action.
- (b) The time limits of this subsection may be waived by three affirmative votes of the Board when such action is deemed necessary to prevent injustice or to facilitate the proper development of the County.