

**CHAPTER 1 ZONING ADMINISTRATION**  
**ARTICLE 1309 - AMENDMENTS**

**1309.01 Amendments to the zoning ordinance by the governing body.**

(a) After the enactment of this zoning ordinance, the governing body may provide for the amendment of this zoning ordinance without holding an election.

(b) Before amending the zoning ordinance, the governing body with the advice of the planning commission must determine whether the amendment is consistent with the adopted comprehensive plan. If the amendment is inconsistent with the comprehensive plan, then the governing body with the advice of the planning commission must find:

(1) That there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted; and

(2) That those changes have substantially altered the basic characteristics of the area.

**1309.02 Amendments to the zoning ordinance by petition.**

(a) After the enactment of this zoning ordinance, the planning commission or the owners of fifty percent or more of the real property in the area to which the petition relates may petition to amend the zoning ordinance. The petition must be signed and be presented to the city planner for presentation to the planning commission or to the city clerk.

(b) Within sixty days after a petition to amend the zoning ordinance is received by the city planner for the planning commission or the city clerk for the governing body, then the planning commission or the governing body must hold a public hearing after giving public notice. The public notice of the date, time and place of the public hearing must be published in a local newspaper of general circulation in the area affected by the proposed zoning ordinance as a Class I legal advertisement, with the date of publication being at least fifteen days prior to the public hearing.

(c) If the petition to amend the zoning ordinance is from the owners of fifty percent or more of the real property in the area, then before amending the zoning ordinance, the governing body with the advice of the planning commission, must determine whether the amendment is consistent with the adopted comprehensive plan. If the amendment is inconsistent with the comprehensive plan, then the governing body with the advice of the planning commission must find:

(1) That there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted; and

(2) That those changes have substantially altered the basic characteristics of the area.

**1309.03 Supplemental notice to adjoining property owners.**

Any person(s) firm or corporation presenting a petition for a change in this zoning ordinance shall, at the time of filing of the petition, provide the city planner or the city clerk with a list of the names and mailing addresses of the owners of all properties located within the same block as the property to be rezoned or within a radius of two hundred feet of all boundaries of the property to be rezoned. If the number of property

owners is 100 or less, "Notice of Proposed Zoning Amendment " shall be served upon them by the petitioner by United States First Class Certified Mail, return receipt requested. If the number of property owners is greater than 100, notification of the petition shall be by publication of "Notice of Proposed Zoning Amendment" as a Class II legal advertisement, in an official newspaper in general circulation in the City of Fairmont, with the date of first publication being at least thirty days prior to the scheduled public hearing . Said notice shall describe the nature and location of the proposed change(s) and shall specifically identify the parcels included by reference to the Marion County Tax Map and Parcel Numbers and shall include the date, time and place of the requisite public hearing. In addition, the city planner shall conspicuously post, or cause to be posted, the aforementioned notice on two properties within the area of the desired change.

#### **1309.04 Planning Commission recommendation to governing body.**

Upon adjourning the public hearing, the planning commission shall make its recommendation and present its findings and report to the governing body within sixty days. The planning commission's findings, recommendation and report shall include, at a minimum, a factual analysis and determination of the following:

- (a) The need and justification for the proposed amendment;
- (b) The effect of the proposed amendment on the property, the surrounding properties and the City as a whole;
- (c) The relationship of the proposed amendment to the comprehensive plan and to the general planning program of the City;
- (d) Whether there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted;
- (e) Whether those changes have substantially altered the basic characteristics of the area.;
- (f) Whether the proposed amendment should be adopted; and
- (g) Whether all notice requirements have been met.

The recommendation and report shall be advisory only, and shall not be binding on the governing body. If the planning commission does not submit its recommendation and report within sixty days of the public hearing, the governing body shall proceed to act on the petition in prescribed time without further awaiting the recommendations of the Planning Commission.

#### **1309.05 Consideration by the governing body.**

Upon completing the first reading of any ordinance proposing an amendment to this ordinance, the governing body shall set a public hearing to be held within thirty-one days of the first reading. After holding the public hearing, the governing body shall render a decision within thirty-one days of the public hearing.

#### **1309.06 Reconsideration of proposed amendment.**

Neither the governing body nor the planning commission shall consider or reconsider a petition presenting the same amendment to this ordinance within a period of one year from the date of the final determination on the initial petition; provided however, the

planning commission may recommend to the governing body that that a proposal be reconsidered within a period of less than one year upon finding:

(a) That there have been major changes of an economic, physical or social nature within the area since the initial consideration; and

(b) That those changes have substantially altered the basic characteristics of the area; and

(c) That the conditions were not considered by the planning commission or the governing body in previous deliberations.