

SECTION 21. ZONING AND REZONING PROCEDURES

- Sec 21. Distinction between zoning and rezoning

Zoning is the initial classification of property as a particular zoning base district. Zoning amends the zoning map to include property that was not previously in the zoning jurisdiction or that was not previously included in the boundaries of a base district.

Rezoning amends the zoning map to change the base district classification of property that was previously zoned.

- Sec 21.01 Initiation of Zoning or Rezoning

Zoning or rezoning of property may be initiated by the:

- Council;
 - Planning and Zoning Commission;
 - Record owner;
 - petition of:
 - the owners of at least 51 percent of the land, by land area, in the proposed district; or
 - least 51 percent of the owners of individual properties in the proposed district.
 - property owned by the **City of Alpine** or other governmental entities shall be fully excluded from the area subject to petition of the owners, except such property may be included in support if it contains structures or features that contribute to the historic character of the district, as determined by the Historic Landmark Commission. The amount of such property to be calculated as supporting shall not exceed one-third of the 51% of the land in the proposed district.
- Sec 21.02 Proposed District Boundaries Must Be Contiguous .

Except as provided in Subsection (1), the boundaries of the districts proposed in a zoning or rezoning application must be contiguous.

The boundaries of the districts proposed in a zoning application may be noncontiguous if the zoning is initiated by the Council or the Planning and Zoning Commission.

- Sec. 21.03. - Jurisdiction.

The City Council shall have jurisdiction with respect to all rezone requests. The Planning and Zoning Commission shall review and submit a recommendation to the City Council on all applications for rezoning.

- Sec. 21.04. - Application and Fee.

Application for a rezone request shall be filed with the Administrative Official. The application shall include the following:

Name and address of the owner and applicant.

Address and legal description of the property.

If the applicant is not the legal owner of the property, a signed statement by the owner that the applicant is the authorized agent of the owner of the property.

An application for a Conditional Use Permit shall be accompanied by a fee set forth by the City Council in the amount of \$250.00.

· Sec. 21.05. - Concurrent Applications.

Application for Rezoning an a Conditional Use Permit for the same property may be made concurrently, subject to the fee applicable for a Rezoning and Conditional Use Permit.

· Sec. 21.06. - Public Hearing.

Within sixty (60) days after filing of a completed application, the Planning and Zoning Commission shall hold a public hearing on such application for a Rezone Request. Notice shall be given as prescribed in [Section 21.13](#). At the public hearing, the Planning and Zoning Commission shall review the application and shall receive pertinent evidence concerning the proposed rezone and proposed conditions, particularly with respect to the findings prescribed in [Section 21.07](#).

· Sec. 21.07. - Recommendation of the Administrative Official.

The Administrative Official shall review each application and shall prepare a recommendation thereon which shall be filed with the Planning and Zoning Commission and made available to the applicant at least five (5) days prior to the public hearing.

· Sec. 21.08. - Action by the Planning and Zoning Commission.

The Planning and Zoning Commission shall act on the application within twenty (20) days following the closing of the public hearing. The Planning and Zoning Commission shall determine whether, in its opinion, the request is consistent with the objectives of this Ordinance and with the Comprehensive Plan, and shall recommend to the City Council that the Rezone request be enacted, or be denied.

· Sec. 21.09. - Review and Evaluation Criteria.

The Planning and Zoning Commission and City Council shall review and evaluate Rezoning Request applications using the following criteria:

Conformance with applicable regulations and standards established by the Zoning Regulations.

Compatibility with existing or permitted uses on abutting sites, in terms of building height, bulk and scale, setbacks and open spaces, landscaping and site development, access and circulation features.

Potentially unfavorable affects or impacts on other existing or permitted uses on abutting sites, to the extent such impacts exceed those which reasonably may result from use of the site for a permitted use.

Modifications to the zoning map which would result in increased compatibility, would mitigate potentially unfavorable impacts, would be necessary to conform to applicable regulations and standards and would protect the public health, safety, and general welfare.

Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed rezone request and other uses reasonable and anticipated in the area; as well as existing zoning and land uses in the area.

· Sec. 21.10. - Actions by the City Council.

Within forty (40) days following receipt of the recommendation of the Planning and Zoning Commission, the City Council shall hold at least one public hearing on the Rezone Request. Notice shall be given as prescribed in [Section 21.13](#).

Unless the council votes to deny a postponement request, a postponement of the public hearing on a zoning or rezoning application is automatically granted on the first request made by each of the following: staff, the applicant, or one interested party in opposition to the application.

A postponement request must be written and submitted to the City Secretary not later than the seventh day before the scheduled public hearing. The request must specify the reasons for the postponement. The Administrative Official provide a recommendation on the validity of the postponement request.

- 1) The City Secretary shall enter an automatic postponement in the minutes with a notation of the identity of the party requesting the postponement.
- 2) Unless otherwise approved by council, an interested party is limited to one postponement for a period of not more than 60 days from the date of the scheduled public hearing.
- 3) The council shall set the time and date of the new hearing at the time a postponement is granted.

Within twenty (20) days following the closing of a public hearing, the City Council may grant a Rezone as the application was applied for, or may deny the application. The City Secretary shall notify the applicant of its decision.

· Sec. 21.11. - Protest Provisions.

If the Planning and Zoning Commission has not recommended approval of the **Rezoning Request**, or if there is a protest against the request signed by the owners of twenty (20) percent of the property immediately adjoining the same and extending two hundred (200) feet there from, such request shall not become effective except by the favorable vote of three-fourths ($\frac{3}{4}$) of the members of the City Council.

· Sec. 21.12. - PUBLIC NOTICE PROCEDURE AND FEES.

Notice of a public hearing for consideration of a Conditional Use Permit shall be as follows:

· Sec. 21.13. - Procedure.

Notice of the initial hearing before the Planning and Zoning Commission shall be given by publication of a legal notice in a newspaper of general circulation in Alpine, Texas at least fifteen (15) days prior to the date of the hearing.

Notice shall be given by mail to the applicant at least ten (10) days prior to the date of the hearing.

Notice shall be given by mail to the owner of each site within two hundred (200) feet of the subject property at least ten (10) days prior to the date of the hearing.

At the option of the Building Official, notice may be given by mail to the owner of any site more than two hundred (200) feet from the subject property at least ten (10) days prior to the date of the hearing.

At the option of the Building Official, notice may be given by mail to any neighborhood organization having a potential interest in the application.

At the option of the Building Official, notice may be given by posting a notice on or adjacent to the subject property at least ten (10) days prior to the date of the hearing.

· Sec. 21.14. - Waivers.

The intent of this section is further to ensure that no citizen or group is denied access to due process of law through an inability to pay for such services. When an individual or group requests an action under this Ordinance for which a fee is required, the City Manager is hereby authorized to inquire into hardships which may be caused by this payment of such fees and may instruct that all or part of such fee is to be waived.

· Sec. 21.15. - Refunds.

The fees established shall be non-refundable to the applicant, unless the request is completely withdrawn before the procedure of notices as set forth in Sec 20.13 have begun.