

Chapter 18.44

FLEXIBLE ZONING OVERLAY DISTRICTS

Sections:

- 18.44.010 Purpose.**
- 18.44.020 Objectives of the flexible zoning overlay district.**
- 18.44.030 Definitions.**
- 18.44.40 Establishment of flexible zoning overlay districts.**
- 18.44.050 Eligibility criteria.**
- 18.44.060 Permitted uses and applicable development standards.**
- 18.44.070 Overlay district application requirements.**
- 18.44.80 Procedures for approval of flexible zoning overlay districts.**
- 18.44.90 Flexible zoning projects.**
- 18.44.100 Flexible zoning project plan application requirements.**
- 18.44.110 Procedures for approval of flexible zoning project plans.**

18.44.010 Purpose.

The purpose of this chapter is to provide standards and procedures for the establishment of flexible zoning overlay districts in areas of the community that are experiencing disinvestment or under-utilization of land. The flexible zoning overlay is intended to stimulate innovative development and promote reinvestment by providing relief from regular land use controls.

18.44.020 Objectives of the flexible zoning overlay district.

Objectives to be achieved through the establishment of a flexible overlay zoning district are:

- A. Encourage investment in areas experiencing blight, disinvestment or underutilization of land;
- B. Create opportunities for development and redevelopment that would otherwise be unachievable.
- C. Promote coordination and cooperation between property owners that are interested in pursuing redevelopment initiatives;
- D. Facilitate design innovation with the reduction or elimination of regular land use and zoning controls;
- E. Ensure adequate public safety within and adjacent to district boundaries;
- F. Maintain quality standards for the provision of city services for properties within and adjacent to district boundaries; and
- G. Protect land uses and neighborhoods that are adjacent to flexible overlay zoning districts from negative impacts.

18.44.030 Definitions.

The following words, terms and phrases shall have the meanings as set forth below, unless the context requires otherwise:

- A. “Flexible zoning overlay district” or “district” shall mean all land within a designated area that has been approved by the council following a public hearing.
- B. “Flexible zoning overlay district plan” or “district plan” shall mean a plan approved by the council which complies with the requirements specified in this chapter.
- C. “Flexible zoning project” or “project” shall mean a development project located within a flexible zoning overlay district that conforms to the established flexible zoning overlay district plan.
- D. “Flexible zoning project plan” or “project plan” shall mean a plan for development located within a flexible zoning overlay district that has been approved by the current planning manager.
- E. “Sensitive use or area” shall mean single family and two-family homes and public and private schools with on-site enrollment of 25 or more students, medical care facilities including hospitals, clinics and nursing facilities, and other uses that may be negatively impacted by projects within a flexible zoning overlay district as determined by the current planning manager.

18.44.040 Establishment of flexible zoning overlay districts.

Establishment of a flexible zoning overlay district includes the following:

- A. Submittal of a reviewable application signed by owners of real property within the district boundaries that is reviewed and deemed complete by the development review team.
- B. Completion of a noticed neighborhood meeting and noticed public hearings by the planning commission and council.
- C. Approval of the flexible overlay district and the district plan by council following a public hearing.

18.44.050 Eligibility criteria.

Property that is within a proposed flexible zoning overlay district shall meet the eligibility requirements specified in this section as determined by the council. In approving a flexible zoning overlay district the council shall determine that the following findings have been met:

- A. Property within the district boundaries is contiguous or separated only by public rights-of-way;
- B. District boundaries are cohesive and generally regular in shape, and reflect an arrangement of property that is reasonably discernable and distinguishable from adjacent land;
- C. Based on the submitted district plan, the city’s development review team has determined that the district can be served with infrastructure at a level that meets applicable Adequate Community Facilities (ACF) standards;
- D. The district plan has been designed to prevent incompatibility with adjacent or nearby uses. Negative impacts on properties outside the district boundaries due to traffic generation, public safety, noise, vibration, fumes, and shadowing shall not exceed the impacts that could occur absent the presence of the district;
- E. Community benefits of the flexible zoning overlay district and the associated district plan shall outweigh any negative impacts to surrounding properties or to the community;

- F. Establishment of the district will encourage property investment and development which might otherwise not occur, and such investment will be beneficial to the community in terms of the following:
1. Reducing or eliminating blight;
 2. Increasing the value of property within the district and in the vicinity of the district;
 3. Providing job opportunities;
 4. Achieving stated city goals;
 5. Facilitating innovative development solutions; and
 6. Improving the image of the community.

18.44.060 Permitted uses and applicable development standards.

When a flexible zoning overlay district is established, the underlying zoning designation remains in place. The establishment of the district provides the opportunity for relief from use restrictions, development intensity limitations and associated standards included in the provisions of the underlying zoning as specified in the flexible overlay district plan and associated approvals.

- A. Once a district has been established and a district plan approved, subsequent development and redevelopment within the district must conform to the district plan.
- B. All property within a flexible zoning overlay district is subject to the following:
1. The provisions of the sign code as applied to uses in the underlying zoning district except when the council waives specific requirements with approval of the overlay district plan.
 2. The subdivision code.
 3. The building code.
 4. City development standards for streets, stormwater, and utilities.
 5. Applicable county, state and federal standards.
 6. All applicable fees and taxes associated with development and construction unless otherwise exempted by the council.

18.44.070 Overlay district application requirements.

- A. An application for establishment of a flexible zoning overlay district may be submitted by a property owner within the proposed district boundaries or by written consent of three city councilors.
- B. A concept review meeting must precede city acceptance and processing of the application.
- C. Written concurrence from all owners of property within the proposed district boundaries must be provided before the planning commission public hearing is noticed.
- D. The application shall include the following information along with other materials as specified on the approved submittal checklist maintained by the current planning division:
1. A map of the proposed district boundaries, including all lots, tracts, outlots and rights-of-way;
 2. A list of all owners of real property within the district boundaries;
 3. A purpose statement demonstrating compliance of the district plan with the eligibility criteria listed in Section 18.44.050; and

4. A plan for the district which specifies the type and extent of development proposed. The plan shall indicate the intensity and configuration of the proposed uses; an architectural concept plan that includes a building massing and height study; a phasing plan, including a projected timeframe for each phase; and, a listing of zoning standards that will be applicable to development within the district. The district plan must indicate how the proposed development will achieve compatibility with surrounding uses and the community.

18.44.080 Procedures for approval of flexible zoning overlay districts.

- A. Review process. Upon receipt of a complete application that was preceded by a concept review meeting within the previous six months, the development review team will undertake the development review procedures specified in chapter 18.39 of this title.
- B. Public notice requirements. Notice shall be provided in accordance with chapter 18.05, except that mailed notice distance shall be six hundred feet from the boundaries of an overlay district that is less than five acres and one thousand and two-hundred feet for districts larger than five acres.
- C. Neighborhood meeting. Prior to completion of the administrative review process, a noticed neighborhood meeting shall be conducted.
- D. Planning commission. A noticed planning commission public hearing shall be conducted following the neighborhood meeting.
 1. Notes from the neighborhood meeting along with relevant application materials, written input from interested parties and a recommendation from the current planning manager based on whether the overlay district plan can meet the findings specified in section 18.44.050 shall be forwarded to the planning commission for review at the public hearing.
 2. After conducting the public hearing, the commission shall formulate a recommendation of approval, approval with conditions or denial based on the same factors used by city staff in making its recommendation.
 3. The public hearing may be continued if the commission determines that additional information is necessary to consider before a decision can be rendered.
 4. If the applicant objects to any condition that the planning commission votes to impose on the district plan, the planning commission shall recommend denial.
 5. The commission's recommendation shall be provided in a resolution and forwarded to the council along with the approved minutes of the public hearing and all other material considered by the commission in determining a recommendation. The resolution shall be approved within thirty days of the commission's decision.
- E. City council. The council shall conduct a public hearing upon receiving the recommendation of the planning commission, the approved minutes of the commission hearing(s), and all informational materials presented to the commission and materials submitted following the commission hearing(s).

1. Council shall approve, approve with conditions or to deny the district and the associated district plan based on whether the proposal can meet the findings specified in section 18.44.050.
 2. Council may establish an expiration or sunset date for a district and for associated district plans.
 3. If the applicant objects to any condition that the council votes to impose on the district plan, the district plan shall not be approved.
 4. The council may remand a district plan to the planning commission for any reason.
 5. If the council approves a district plan, it shall adopt an ordinance establishing the overlay district and the district plan. The adopted plan, signed by the mayor, the city attorney and the current planning manager, shall be recorded along with the adopting ordinance.
 6. The adopted overlay zone shall be designated on the official zoning map.
- F. Development within a designated overlay zone shall not occur unless a flexible zoning project plan has been approved for the district and the district and the district plan remain in effect.
- G. A flexible zoning project plan may be considered concurrently with a flexible zoning overlay district plan. When a concurrent submittal is made, the council shall have final decision making authority on both plans following the public hearing process described in this section.
- H. A flexible zoning overlay district plan shall be amended in the same manner it was approved unless the current planning manager determines that the proposed amendment meets the following criteria:
1. The amendment would not allow new uses.
 2. The amendment would not allow an increase in development density or intensity.
 3. The amendment would not alter a condition approved by council.
 4. There is no reason to believe that any party would be aggrieved by the amendment.

Where these criteria have been met, the amendment shall be considered minor and the current planning manager shall have the authority to approve, approve with conditions or deny the amendment. Alternatively, the current planning may forward a minor amendment to the planning commission for determination at a public hearing that is noticed in a manner consistent with this chapter. Final planning commission decisions on district plan amendments may be appealed to council by a party in interest. The appeal shall be processed and heard as specified in chapter 18.80.

18.44.090 Flexible zoning projects.

Development within an established flexible zoning overlay district requires approval of a flexible zoning project plan by the current planning manager following review by the development review team except when the council approves a project plan concurrently with the approval of a flexible zoning overlay district.

18.44.100 Flexible zoning project plan application requirements.

Applications for flexible zoning project plans, including associated subdivision, infrastructure and related applications, shall be subject to the requirements for site development plans specified in chapter 18.46.

18.44.110 Procedures for approval of flexible zoning project plans.

- A. Applications for approving or amending flexible zoning project plans shall be subject to the procedures for site development plans specified in chapter 18.39 and 18.46.
- B. Building permits. Any building permit issued for the project site shall be consistent with the approved project plan unless development plans are approved as otherwise authorized by this chapter and this title.

18.44.120 Expiration of a district and termination of a district plan.

Council has exclusive authority to establish and to extend flexible zoning districts, and to approve and terminate district plans.

- A. When establishing a flexible zoning overlay district, the council may specify a sunset date upon which the district designation would expire and any associated plans would be terminated. Expiration of a district results in the removal of the district overlay designation on the official zoning map and reestablishment of the authority of the underlying zoning regulations.
- B. The established sunset period for a flexible zoning overlay district may be extended by the council at the request of all property owners within the district. An extension must occur prior to the expiration date.