

ORDINANCE NO. 241

AN ORDINANCE AMENDING ORDINANCE NO. 169 SECTION 8, CONDITIONAL USES TO INCLUDE REZONING APPLICATIONS AND PROCEDURES AND ELIMINATING SECTION 12, AMENDMENTS FOR THE CITY OF BETHEL HEIGHTS, ARKANSAS.

WHEREAS, The City of Bethel Heights has previously enacted Ordinance No. 169,

NOW THEREFORE, Ordinance No. 169 shall be amended to include the following;

Section 1. Amending Section 8. Conditional Uses adding "and Rezoning Applications and Procedures" to read: Conditional Uses and Rezoning Applications and adding (d.) Rezoning Applications and Procedures.

Section 2. Section (d) Rezoning Applications and Procedures.

Changes in the boundaries of the zoning districts may be initiated by one or more persons who own the property. In addition, the city council or the planning commission may initiate amendment to change the boundaries of the zoning districts or any other provision of the zoning ordinance whenever the public necessity and general welfare requires such amendment.

1. Rezoning procedure initiated by private parties.
  - a. Fee. Any private party or parties desiring a zoning change shall pay a fee, as determined by ordinance of the city council, to the zoning representative to cover cost of public notices, and other expenses.
  - b. Petition. Any private party or parties desiring an amendment to the boundaries of the zoning districts of this articles, upon payment of the above fee, shall submit a petition to the planning commission providing the following information:
    1. The name of the record title holder of the property provided by a copy of the warranty deed and the intended grantees if the property is subject to contract sale or title is to be otherwise conveyed.
    2. The zoning classification request for the property.
    3. A brief statement explaining the reason for the rezoning request, the intended use of the property, and the effect of property changes upon the surrounding land uses.
    4. A layman's description of the property.
    5. If the property to be rezoned is to be only a portion of the land described on the warranty deed then an accurate legal description provided by a copy of a recent survey certified by a registered land surveyor will be required.
    6. A scaled drawing of the property to be rezoned showing accurate lot lines, surrounding zoning, adjacent property owners names, vicinity map, and a north arrow.
    7. Evidence in the form of a signed affidavit, that notice has been given to all adjacent property owners of the project subject to the rezoning after the application has been accepted and placed on the planning commission agenda. The petitioner shall be responsible for providing such notice by certified mail, return receipt requested, to the last known address of such record owner(s) as certified by a licensed abstractor or a licensed land surveyor within the past sixty (60) days.

8. The required affidavit and supporting exhibits (mailing receipts, list of adjacent property owners and copy of notice) shall be filed with the zoning representative no later than seven (7) days prior to the meeting date.
- c. Public Hearing. Upon receipt of a petition for an amendment, the planning commission shall hold a public hearing on the proposed amendment, after:
1. A notice has been published in a newspaper of general circulation in the city at least one time fifteen (15) days prior to the public hearing, which notice sets forth the time and place of such hearing and the amendment proposal.
  2. The city has posted at least one (1) sign on the project subject to the rezoning hearing, at least ten (10) days before the hearing. Each sign shall give notice of the rezoning hearing, location, time and date.
  3. The adjacent property owners of the described property has been notified by certified mail, return receipt requested, at least ten (10) days prior to the public hearing and the required affidavit has been submitted in accordance with subsection b. (8) above.
  4. The petitioner shall be present at the meeting for the matter to be considered. If the applicant is unable to attend, written authorization from the petitioner authorizing representation must be presented to the commission for the matter to be considered. Any decisions made by the designated agent shall be binding on the landowner.
- d. Action by the planning commission.
1. The planning commission shall hear the petitioner's request for rezoning at the public hearing and shall consider the petitioner's purposes for the re-zoning request as well as public comments. The amendment, as presented or modified by the action following the public hearing, shall be voted on by the planning commission or tabled for further action. If recommendation for approval is granted by the planning commission, the matter will be referred to the city council in the form of an ordinance, (ordinance to be prepared by staff), for the approval of the city council.
  2. Should the planning commission determine a lesser impacting zone would be more appropriate to meet the purposes of the petitioner and would cause less impact on the neighboring parties, the commission is empowered to reduce the zoning classification requested to a different classification, if the petitioner concurs. After consideration of comments from the public, the commission may vote thereon without the necessity of further publication notice. Any change in zoning classification to a higher or more impacting zone would require notice to be republished and a public hearing to be held again.
  3. The petitioner's request for rezoning may be tabled one time to a later meeting only by action of the planning commission and only after the commission has heard comments from adjacent property owners and interested parties. Tabling a petition one time by the planning commission will not require an additional filing fee or re-notification. Should the petition be tabled again, it will be treated as a withdrawal of the rezoning request, and will require the re-filing of the petition complete with an additional filing fee and proper re-notifications before the matter will be placed on the agenda.

4. If a petitioner would like to withdraw a request, the petitioner may do so at the public hearing or in writing prior to the meeting. Withdrawal by a petitioner will require the re-filing of the application complete with an additional filing fee and proper re-notifications before the matter will be placed on the agenda.
- e. Action by the city council. The city council, by majority vote, may by ordinance adopt the recommended amendment submitted by the planning commission or may return the proposed amendment to the planning commission for further study and recommendation. If action is not taken by the city council within sixty (60) days of the planning commission's submission of the proposed amendment to the city council, then the applicant shall be required to re-petition for a zoning change.
- f. Appeal by petition to the city council. Following disapproval of a proposed amendment by the planning commission, the petitioner may appeal such disapproval to the city council, provided that the petitioner states specifically in writing to the city clerk why the petitioner considers the planning commission's findings and decisions to be in error. Such appeal shall be filed with the city clerk within fifteen (15) days from the date of the planning commission action along with an affidavit stating that adjacent property owners have been notified of the appeal to the city council. The appeal will be placed on the city council agenda no later than the second meeting following the filing of the appeal. The petitioner shall be present at the meeting for the matter to be considered. If the petitioner is unable to attend, written authorization from the petitioner authorizing representation must be presented to the council for the matter to be considered. The city council may approve the proposed amendment only by majority vote of all the members.
- g. Re-petitions for amendment. No zoning amendment for a specific zone change which was denied shall be resubmitted within twelve (12) months from the date of final disapproval of a proposed amendment unless there is evidence submitted to the planning commission which justifies reconsideration.
  1. Amendment procedures initiated by the city council. When the city council desires to initiate amendments to the ordinance, such proposals shall be referred to the planning commission for study and recommendations. Following public hearings as provided in section 1 (c), the planning commission and the city council shall act in accordance with the procedures set forth in section 1 (d). and (e).
  2. Amendment procedures for the planning commission. When the planning commission desires to initiate an amendment to this article; a public hearing will be called by the planning commission as provided in section 1.c. above: Following such public hearing, the planning commission and the city council shall act in accordance with the procedures set forth in section 1 (d), and (e). above.

Section 3. Eliminating Section 12. Amendments.

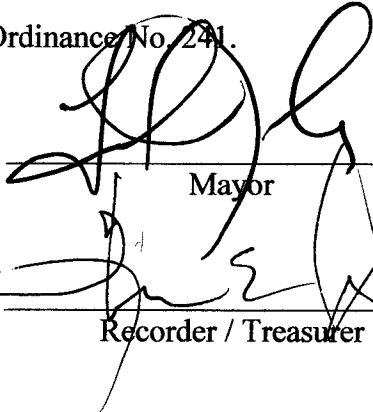
Section 4. Renumbering Section 13 Fees to Section 12.

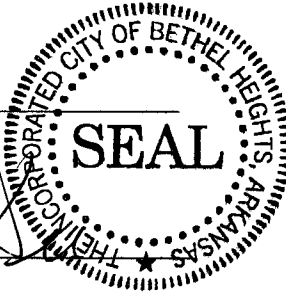
Section 5. THEREFORE, that the remainder of Ordinance No. 169 shall remain in full force and effect and any part in conflict thereof shall be null and void.

Passed and approved this 19<sup>th</sup> day of July, 2007.

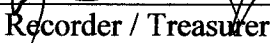
Approval of Ordinance No. 241.

APPROVED:

  
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Mayor

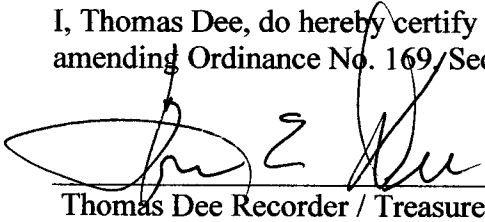


ATTEST:

  
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Recorder / Treasurer

Certification

I, Thomas Dee, do hereby certify that this is a true and correct copy of Ordinance No. 241, an ordinance amending Ordinance No. 169/Section 8 and eliminating Section 12.

  
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Thomas Dee Recorder / Treasurer

Date:

7-19-07

