IN THE SUPREME COURT

OF THE

STATE OF COLORADO

No. 80SC59
80SC43

JERRY G. YANZ; SANDRA K. YANZ; WALTER E. MADER, JR., et al., Plaintiffs-Appellants, vs. THE CITY OF ARVADA, et al., Defendants-Appellees.	)	Rule 50 Certiorari to the Colorado Court of Appeals No. 80SC59
ROBERT R. WRIGHT, EDNA S. WEBSTER, and NORMA D. BEARD, Petitioners, vs. THE CITY OF LAKEWOOD, et al., Respondents.	)	Certiorari to the Colorado Court of Appeals No. 80SC43

BRIEF OF AMICUS CURIAE COLORADO MUNICIPAL LEAGUE IN SUPPORT OF ARVADA AND LAKEWOOD

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INTEREST OF THE COLORADO MUNICIPAL LEAGUE AS AMICUS CURIAE

The Colorado Municipal League (League) is a non-profit association of two hundred twenty-nine Colorado municipalities. The primary objective of the League is to aid in the improvement of municipal government to the benefit of Colorado municipalities and their citizens.

The power to protect the health, safety and welfare of the general public through the exercise of zoning power is a matter of great concern to Colorado municipalities. Regulating the use of land in a municipality is essential to providing a well-planned community, responsive to the needs of all citizens.

Municipalities throughout Colorado are vitally interested in and concerned with any action or decision which could adversely affect their ability to zone property in accordance with statutory or home rule charter procedures. The issues presented by the above-entitled cases fall within that area of concern. Insofar as the petitioners argue that the referendum power applies to quasi-judicial zoning decisions, comprehensive land use planning based upon procedures designed to protect individual landowners and benefit the general public could be destroyed.

The League has on various occasions appeared before Colorado appellate courts as Amicus curiae in cases of significant interest to Colorado municipalities. Participation by the League would provide the Court with a statewide perspective of the issues involved.

Because of these interests, the League appears as Amicus Curiae in these cases on behalf of Arvada and Lakewood.

STATEMENT OF THE CASE AND STATEMENT OF FACTS

The Colorado Municipal League adopts the statement of the case and statement of the facts as set forth in Lakewood's brief.

ISSUES PRESENTED

I. Does the power of referendum apply to quasi-judicial zoning decisions?

II. Will a referendum election on the master plan amendment in No. 80SC43 have any effect upon the rezoning granted in that case?

I. THE POWER OF REFERENDUM DOES NOT APPLY TO QUASI-JUDICIAL ZONING DECISIONS.

A. The Referendum Provisions Of The Colorado Constitution And The Arvada City Charter Apply Only To Legislative Matters.

1. The Colorado Constitution

Article V, Sec. 1, Colo. Const. reserves the right of initiative and referendum with respect to state legislation. The last part of this Section states:

> The initiative and referendum powers reserved to the people by this section are hereby further reserved to the legal voters of every city, town and municipality as to all local, special and municipal legislation of every character in or for their respective municipalities. The manner of exercising said powers shall be prescribed by general laws, except that cities, towns and municipalities may provide for the manner of exercising the initiative and referendum powers as to their municipal legislation. (Emphasis added.)

Thus, with respect to "municipal legislation," the initiative and referendum powers are reserved to the legal voters, and the municipality is empowered to provide for the manner in which the right is exercised.[1] See, Francis v. Rogers, 182 Colo. 430, 514 P.2d 311 (1973).

An issue raised by this appeal is whether this constitutional provision extends the power of referendum beyond the scope of legislative matters. This question was specifically answered by this Court in City of Aurora v. Zwerdlinger, 194 Colo. 192, 571 P.2d 1074 (1977), which held that this provision applied only to legislative acts, and that an administrative ordinance setting utility rates was not subject to referendum.

> The intention evidenced by Article V of the Colorado Constitution is to vest only legislative power directly in the people. The language of the article itself refers specifically to the initiative and referendum powers as the means by which the people can exercise the legislative

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[1]Lakewood has adopted initiative and referendum procedures controlling the manner in which the constitutional powers are exercised as to municipal legislation. See, Chapter 2.52 Lakewood Municipal Code.

> power. It is also not unimportant that these powers are reserved in the article of our Constitution which deals expressly and singularly with the legislative branch of government. We, therefore, construe the constitutional provisions to apply only to acts which are legislative in character.... Id. at 195, 571 P.2d at 1076.

Consequently, since the Zwerdlinger decision, the constitutional powers of initiative and referendum apply only to the legislative acts of a city council. Such is the majority rule. *See, e.g.* Carson v. Oxenhandler, 334 S.W.2d 394 (Mo. Ct.App. 1960); Simpson v. Hite, 36 Cal.2d 125, 222 P.2d 225 (1950); State ex rel. Frank v. Salome, 167 Kan. 766, 208 P.2d 198 (1949); Tillamook Peoples' Utility District v. Coates, 174 Or. 476, 149 P.2d 558 (1944); Kiegley v. Bench, 97 Utah 69, 89 P.2d 480 (1939); Dooling v. City Council of Fitchburg, 242 Mass. 599, 136 N.E. 616 (1922).

The policy behind this rule is well-reasoned. While a city council is the legislative body of a city, it is also frequently required to act in an administrative or quasi-judicial capacity. When a council adopts legislative policy, such decisions are and should be subject to the will of the electorate. Similarly, if a council fails to adopt a legislative policy which the electorate desires, the people can initiate an ordinance enacting that policy. However, once a legislative policy is in place and is being implemented through, for example, individual quasi-judicial decisions, the electorate should not be able to vary it on a case-by-case basis. In the case of a quasi-judicial decision, it is wasteful and unfair to the particular applicant (or opponent) to require him to finance a city-wide campaign to uphold what was supposed to be established city policy.

Such a rule does not usurp the power of the electorate. If administrative or quasi-judicial decisions made pursuant to municipal legislative policy are not to the people's liking, they can change that legislative policy by initiative or referendum. For example, the zoning decisions here objected to were made

pursuant to detailed procedures and policies set down in the general zoning ordinance. If the people of Arvada or Lakewood are dissatisfied with the quasi-judicial decisions these policies and procedures produce, they are free to initiate new policies and new procedures more to their liking.[2] They may even do away with zoning altogether.

But the Petitioners here have not challenged the legislative policy which led to the quasi-judicial zoning decisions. Rather, they have attacked the individual decisions themselves, in effect attempting to carve case-by-case exceptions into the municipal zoning policy. Such is not the intended role of the legislative powers of initiative and referendum.

The Zwerdlinger decision recognizes the essential distinction between the legislative acts of a city council, and those numerous other functions a council must perform which are not legislative. Consequently, the constitutionally reserved powers of initiative and referendum apply only to the legislative acts of a city council.

2. The Arvada Charter

The same rationale applies to all provisions for initiative and referendum. Art. XX, Sec. 5, Colo. Const.[3] requires all home rule charters to provide for initiative and referendum procedures. Section 5.13 of the Arvada City Charter states that with certain exceptions not here applicable, the power of referendum "shall apply to all ordinances passed by the Council...."

Under the Court's decision in City of Aurora v. Zwerdlinger, supra, this language must be interpreted as applying only to ordinances which are legisla-

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[2]Lakewood voters, being from a statutory city, would have to initiate new state legislation if they wished to do away with statutory rezoning requirements.

[3]While this Section literally deals only with Denver, it is made applicable to all home rule municipalities by Art. XX, Sec. 6, Colo. Const.

tive in character.

The charter provision at issue in Zwerdlinger stated that "[t]he referendum shall apply to all ordinances passed by council...." The question was whether this provision should be literally applied to allow referendum as to a non-legislative ordinance fixing utility rates. It was stated that:

> [R]eferences in municipal charters to "all ordinances" have generally been interpreted as meaning only ordinances which are legislative in character.
>
> * * * *
>
> From an early date in the history of the right of referendum it has been recognized that to subject to referendum any ordinance adopted by a city council, whether administrative or legislative, could result in chaos and the bringing of the machinery of government to a halt.
>
> * * * *
>
> Although initiative and referendum provisions widely differ in their terminology, it is the general rule that they are applicable only to acts which are legislative in character, and not to those dealing with administrative or executive matters....
>
> * * * *
>
> In accordance with this rule the words "any ordinance" in a provision for referendum have frequently, and almost universally, been construed to mean ordinances which are legislative in character.

Id. at 196, 571 P.2d at 1076-7.

The Court concluded that, in spite of the charter provision's literal language, "the Aurora Charter reserved the referendum power only as to all legislative ordinances...." Id. at 196 571 P.2d at 1077. Consequently, it was held that the referendum power had no application to a non-legislative ordinance.

It can be seen that the language of the Arvada City Charter is the same language dealt with in the Zwerdlinger case. It necessarily follows that Zwerdlinger's interpretation of this language is applicable to the Arvada charter. Consequently, section 5.13 of the Arvada City Charter applies only to actions of the city council which are legislative in character.

B. The Quasi-Judicial Process Of Zoning Particular Tracts Of Land Is Not A Legislative Matter And Is Thus Not Subject To The Referendum Power.

Since this Court's decision in Snyder v. City of Lakewood, 189 Colo. 421, 542 P.2d 371 (1975), it has been definitively established that the process of rezoning specific pieces of property is not legislative, but quasi-judicial. The opinion in Snyder specifically draws a distinction between "the adjudicative process involved in enacting a *rezoning* ordinance and the legislative process involved in passing the general zoning ordinance." Id. at 425, 542 P.2d at 373-4 (emphasis by the Court).

This distinction is explained as follows:

> Generally, when a municipal legislative body enacts a comprehensive plan and zoning code, it acts in a policy making capacity. But in amending a zoning code, or reclassifying land thereunder, the same body, in effect, makes an adjudication between the rights sought by the proponents and those claimed by opponents of the zoning change. The parties whose interests are affected are readily identifiable. Although important questions of public policy may permeate a zoning amendment, the decision has a far greater impact on one group of citizens than on the public generally.
>
> Another feature of zoning amendment decisions, which distinguishes them from other types of legislative action, is their localized applicability. Other municipal ordinances which affect particular groups or individuals more than the public at large apply throughout an entire georgraphic area within the municipal jurisdiction, whereas ordinances that amend zoning codes or reclassify land thereunder apply only to the immediate area being rezoned.
>
> Finally, legislative hearings are generally discretionary with the body conducting them, whereas zoning hearings are required by statute, charter or ordinance. The fact that these hearings are required is itself recognition of the fact that the decision making process must be

> more sensitive to the rights of the individual citizen involved. Id. at 425, 542 P.2d at 374.

Thus, the Court held that while the passage of the general zoning ordinance is legislative, "the enactment of a rezoning ordinance pursuant to the statutory criteria, after notice and a public hearing, constitute[s] a quasi-judicial function...." Id. at 426, 542 P.2d at 375.

The Snyder decision was followed in the subsequent case of Corper v. City & County of Denver, 191 Colo. 252, 552 P.2d 13 (1976), wherein the Court held that the zoning amendment procedure utilized by Denver was quasi-judicial in nature, even though the City's ordinances referred to rezoning actions as "legislative."

Three factors the Court in Snyder thought essential to a finding that the action of a municipal legislative body is quasi-judicial are:

> (1) a state or local law requiring that the body give adequate notice to the community before acting; (2) a state or local law requiring that the body conduct a public hearing, pursuant to notice, at which time concerned citizens must be given an opportunity to be heard and present evidence; (3) a state or local law requiring the body to make a determination by applying the facts of a specific case to certain criteria established by law. Id. at 425, 542 P.2d at 374.

The Snyder case itself establishes that the statutory procedure used by Lakewood for rezoning is quasi-judicial. With respect to Arvada, rezoning procedures are controlled by Ordinance 1324, which specifically states that rezonings are to be accomplished "in accordance with the provisions of this Ordinance, and Title 31, Article 23, of the Colorado Revised Statutes." Section 1.2.1(A), Arvada Ordinance 1324. Thus, the rezoning procedure in Arvada adopts the statutory procedure, which Snyder declared to be quasi-judicial. Arvada is required to conduct public hearings prior to a rezoning action, and must give advance notice of those hearings to the applicant and the general public. Section 10.8, Arvada Ordinance 1324. Specific rules concerning the procedure applicable to such hearings are set out, and the city is required to reach a

decision by applying the relevant facts to criteria prescribed by law. Pertinent provisions of the Arvada ordinance are reprinted at Appendix A. In short, all the criteria required to make an action of the city council quasi-judicial under Snyder are present in the Arvada rezoning procedure.

Since the zoning process is quasi-judicial rather than legislative, and since the power of referendum applies only to legislative matters, it is clear that referendum does not apply to ordinances zoning particular pieces of property.

Other jurisdictions have come to the same conclusion. *See, e.g.*, Leonard v. City of Bothell, 87 Wash.2d 847, 557 P.2d 1306 (1976) (rezoning not a legislative decision and thus not subject to referendum); West v. City of Portage, 392 Mich. 458, 221 N.W.2d 303 (1974) (general zoning ordinance is legislative act and subject to referendum; rezoning is administrative and not subject to referendum); Forman v. Eagle Thrifty Drugs and Markets, Inc., 89 Nev. 533, 516 P.2d 1234 (1974) (rezoning merely effectuates previously declared policy of general zoning ordinance, is administrative, and not subject to initiative or referendum); Bird v. Sorenson, 16 Utah 2d 1, 394 P.2d 808 (1964) (enactment of rezoning ordinance administrative, not subject to referendum).

Some courts have reached the same conclusion based primarily upon policy considerations. Thus, in Elkind v. New Rochelle, 5 N.W.2d 836, 181 N.Y.S.2d 509, 155 N.E.2d 404 (1957), the court affirmed a decision at 163 N.Y.S.2d 870 which held that inasmuch as the zoning enabling act not only provided that the city council would amend the zoning regulations, but also set out a detailed procedure for doing so, referendum should not apply to a zoning amendment. Otherwise, explained the court, the safeguards and procedures established by the legislature would be completely nullified. And, in Township of Sparta v. Spillane, 125 N.J. Sup. 519, 312 A.2d 154 (1973) the court held that since zoning was intended to be accomplished in accordance with a comprehensive plan, and that achievement of such goals might be jeopardized by piecemeal attacks upon zoning ordinances by referenda, the power of referendum did not apply to an amendment to the zoning ordinance. Finally, in O'Meara v. City of Norwich, 167 Conn. 579, 356 A.2d 906 (1975), the court held that statutory zoning

requirements incorporate safeguards assuring a full and fair consideration of the matter, thus protecting the rights of individual property owners. Consequently, the act of zoning was not a legislative function and not subject to referendum.

The policy reasons for not applying initiative and referendum to quasi-judicial zoning matters are indeed persuasive. Perhaps the most compelling arguments concern the rights of individual property owners.

The procedures controlling individual zoning decisions in Lakewood and Arvada are designed to protect the rights of property owners by giving them prior notice and an opportunity to present their side of the issue. The hearing is held in a forum which is bound by written procedures and standards, and which produces a written record and decision. Property owners can determine, prior to the hearing, what factors will be relevant to the decision, and can prepare accordingly. If the decision-making body fails to follow required procedures, abuses its discretion or exceeds its jurisdiction, the decision can be set aside via judicial review under C.R.C.P. 106(a)(4).

These safeguards will be largely destroyed if quasi-judicial zoning decisions can be made by initiative and referendum. An initiated ordinance need not be subjected to any type of hearing. A hearing would be of little avail in any case, since the decision would be made, not in a quasi-judicial atmosphere, but in the political arena. Comprehensive planning and zoning procedures designed to safeguard individual interests and provide a well-reasoned decision will no longer be relevant considerations. Instead, a property owner will be forced to mount an expensive election campaign aimed at each registered voter in the city, in an attempt to persuade them to zone or not zone his property in a particular manner. This burden will fall not only upon an applicant for rezoning, but also upon the individual who is satisfied with his present zoning and is protesting an initiated rezoning of his property.

Neighboring property owners affected by a particular rezoning which is being referred or initiated will also be unable to present their views in the context of a controlled public hearing. If they want their side of the issue

heard, these individuals will be forced to finance an election campaign. If they lack the money or the public relations expertise essential to city-wide election campaigns, they will be effectively precluded from being heard.

Finally, the concept of certiorari review via C.R.C.P. 106(a)(4) will be inapplicable to a zoning decision made by initiative or referendum. The factors upon which the decision-making body (i.e., the electorate) bases its determination will be impossible to ascertain and, in any case, irrelevant. Presumably, the "arbitrary and capricious" standard would not apply to a legislative decision made by the electorate. Consequently, the only situation in which such a decision could be set aside would be where the zoning deprived the owner of substantially all reasonable uses of his property.

Other compelling policy reasons exist for not allowing quasi-judicial zoning decisions to be decided by initiative and referendum. Lakewood and Arvada, like many other Colorado municipalities, have enacted master plans which serve as guides for the future development of the communities. The adoption of such plans has long been encouraged by the General Assembly in order to provide for "a coordinated, adjusted, and harmonious development of the municipality...." §31-23-207, C.R.S. 1973 (1977 Repl. Vol.). See also, §31-23-303, C.R.S. 1973 (1977 Repl. Vol.), which requires zoning regulations to be made "in accordance with a comprehensive plan."

In all probability, zoning decisions made by popular vote will have little, if any, relationship to a comprehensive plan. Instead, the operative factor will be the size of election campaign the applicant (or opponents) can afford. Without adherence to a comprehensive plan, zoning can degenerate into fragmented, disconnected decisions devoid of any discernible continuity. Such a result thwarts the goal of zoning in the first place, creates public cynicism for the zoning process, and contravenes the legislative intent evidenced by the above statutes.

Another important policy consideration concerns municipal liability under 42 U.S.C. §1983 for zoning decisions which violate the Fifth Amendment. This federal statute (the full text of which is reprinted in Appendix A) pro-

vides that every person who, under color of law, violates another person's constitutional rights, shall be liable to that person in damages.[4] It has been held that a municipal action which violates the Fifth Amendment takings clause is redressable under §1983. Lake Country Estates, Inc. v. Tahoe Regional Planning Agcy., 99 S.Ct. 1171 (1979). Further, there is the possibility of an inverse condemnation action under the Fifth Amendment alone.[5] Consequently, if zoning can be accomplished by initiative, the public has the ability to *unknowingly* create massive damages claims against the municipality.

Petitioners rest their case primarily upon the decision in City of Fort Collins v. Dooney, 178 Colo. 25, 496 P.2d 316 (1972).

Initially, it should be noted that Dooney does not apply to a statutory city like Lakewood. The opinion clearly indicates that it was construing a provision of the Fort Collins home rule charter. Lakewood, as a statutory municipality, has neither a charter nor the independent power over "local and municipal" concerns possessed by home rule municipalities. *See,* Art. XX, §6, Colo. Const.

Beyond that, however, it is clear that Snyder v. City of Lakewood, supra, and City of Aurora v. Zwerdlinger, supra, have changed the state of the law so that Dooney is no longer applicable to any municipality, including home rule cities like Arvada.

At the time Dooney, was decided, rezoning in Colorado had not been declared quasi-judicial. Neither had referendum under home rule charters been limited to legislative ordinances. Snyder declared zoning to be quasi-judicial in 1975, and Zwerdlinger limited referendum to legislative ordinances in 1977. Consequently, the issues which are most basic to this case were not even addressed in Dooney.

It is clear that the state of the law has changed significantly since 1972,

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[4]In Monell v. N.Y.C. Dept. Social Services, 436 U.S. 658 (1978), the Court held that municipalities are "persons" for purposes of liability under §1983, and in Owen v. City of Independence, 48 L.W. 4389 (1980), the Court held that municipalities have no "good faith" immunity for their acts.

[5]See, Agins v. City of Tiburon, 157 Cal.Rptr. 372, 598 P.2d 25 (1979) wherein it was held that an inverse condemnation action for compensation was not an available remedy for a confiscatory zoning ordinance. The U.S. Supreme Court has granted certiorari in this case.

when Dooney was decided. Insofar as Dooney would allow a quasi-judicial zoning decision to be made by referendum, it has been overruled by Snyder and Zwerdlinger.

Zoning directly affects the most valuable asset in the community, real estate. However, it must be remembered that property is owned by individual citizens, not the community. While the public has the right to regulate the use of this property pursuant to the zoning power, the property owner also has rights and interests which must be protected if land use planning is to continue as a rational, politically feasible process. The detailed, quasi-judicial procedure by which zoning decisions are made in Arvada and Lakewood is designed to protect those rights and interests. It should not be transformed into a legislative process which would be largely unresponsive to individual property owners' interests.

II. A REFERENDUM ELECTION ON THE MASTER PLAN AMENDMENT IN NO. 80SC43 WILL HAVE NO EFFECT UPON THE REZONING GRANTED IN THAT CASE.

Because of the ten page limit of C.A.R. 57, this brief does not address the issue raised in No. 80SC43 (Wright v. City of Lakewood) as to whether an amendment to a master plan is subject to referendum. However, it should be pointed out that a referendum election on the master plan amendment will have no effect upon the rezoning granted in that case.

In Richter v. City of Greenwood Village, 513 P.2d 241 (Colo.App. 1973) (not selected for official publication), the court held that Greenwood Village was not bound by recommendation in its master plan.

> A comprehensive plan is helpful in guiding a coordinated, adjusted and harmonious development of a municipality and its environs, but the plan is still no more than just that - a *plan*. (Citation omitted.) The City's zoning ordinance is determinative of the available zoning classifications....513 P.2d at 242 (Emphasis by the court.)

This decision, that master plans are merely non-binding policy guidelines, represents the majority rule. *See, e.g.*, Copple v. City of Lincoln, 202 Neb. 152, 274 N.W.2d 520 (1979); Kalakowski v. John A. Russell Corp., 401 A.2d 906 (Vt. 1979); Iverson v. Zoning Bd., Howard County, 22 Md.App. 265, 322 A.2d 569 (1974); Forks Township Bd. Supervisors v. George Calantoni & Sons, Inc., 6 Pa. Cmwlth. 521, 297 A.2d 164 (1972); Mott's Realty Corp. v. Town Plan and Zoning Committee, 152 Conn. 535, 209 A. 2d 179 (1965). Thus in Cochran v. Planning Bd. of Summit, 87 N.J. Super. 526, 210 A.2d 99 (1965), it was said that:

> The mere adoption and recording of a master plan has no legal consequence. The plan is merely a declaration of policy and a disclosure of an intention which must thereafter be implemented by the adoption of various ordinances. ****Until appropriate municipal legislative action is taken, however, the municipality has only a dormant plan.... Id. at 535, 536, 210 A.2d at 105.

Consequently, a referendum election on the master plan amendment will have no effect upon the rezoning granted in No. 80SC43.

APPENDIX A

1. 42 U.S.C. §1983 (1970)

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

2. Pertinent Provisions of Arvada City Charter

Ordinance No. 1324

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE CITY OF ARVADA, COLORADO: PROVIDING FOR THE ADMINISTRATION ENFORCEMENT AND AMENDMENT THEREOF IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 31, CHAPTER 23, OF THE COLORADO REVISED STATUTES AND AMENDMENTS THERETO; PROVIDING FOR THE REPEAL OF ORDINANCE NO. 870 AND ALL AMENDMENTS THERETO AND ALL OTHER ORDINANCES OR PARTS THEREOF WHICH ARE IN CONFLICT HEREWITH.

ARTICLE 1, PREAMBLE—GENERAL PROVISIONS

PREAMBLE

WHEREAS, Title 31, Article 23, of the Colorado Revised Statutes and Amendments thereto empowers the City to enact a Zoning Ordinance and to provide for its administration, enforcement, and amendment; and

WHEREAS, the City Council deems it necessary for the purpose of promoting the health, safety, morals, or general welfare of the City to enact such an Ordinance; and

WHEREAS, the City Council, pursuant to the provisions of Title 31, Article 23, of the Colorado Revised Statutes, and Amendments thereto, has appointed a Zoning Commission (Planning Commission) to recommend the boundaries of the various original districts and appropriate districts and appropriate regulations to be enforced therein; and

WHEREAS, the Zoning Commission (Planning Commission) has divided the City into districts and has prepared regulations pertaining to such districts in accordance with the adopted Comprehensive Plan designed to lessen congestion in the streets; to secure safety from fire panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; and to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements; and

WHEREAS, the Zoning Commission (Planning Commission) has made a preliminary report and held public hearings thereon, and submitted its final report to the City Council; and

WHEREAS, the City Council has given due public notice of hearings relating to zoning districts, regulations and restrictions and has held such public hearings; and

WHEREAS, all of the requirements of Title 31, Article 23, of the Colorado Revised Statutes and Amendments thereto with regard to the preparation of the report of the Zoning Commission (Planning Commission) and subsequent action of the City Council have been met.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1.2. GENERAL PROVISIONS

Section 1.2.1. Establishment of Districts - Provisions for Official Zoning and Flood Plain Maps

The City is hereby divided into zones or districts as shown on the Official Zoning Maps which together with all explanatory matter thereon is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Maps shall be identified by the signature of the Mayor, attested by the City Clerk and bearing the Seal of the City of Arvada under the following words: "This is to certify that this is an Official Zoning Map for Section _____, T. _____S., R._____ _____W., 6th P.M., City of Arvada, County of Jefferson, referred to in the Arvada City Codes", together with the date of adoption of this Ordinance. Also included as

part of this Ordinance are the Official Flood Plain Maps which together with all explanatory matter thereon is hereby adopted by reference. The Official Flood Plain Maps shall be identified by the signature of the Mayor, attested by the City Clerk and bearing the Seal of the City of Arvada, under the following words: "This is to certify that this is the Official Flood Plain Map of the City of Arvada, Colorado, referred to in Article 6, of the Arvada City Codes", together with the date of adoption of this Ordinance.

A. Procedure for Change

If, in accordance with the provisions of this Ordinance, and Title 31, Article 23, of the Colorado Revised Statutes, changes are made in district boundaries or flood plain boundaries or other matter portrayed on the Official Zoning Maps or Official Flood Plain Maps, such changes shall be entered on the Official Zoning Maps, such changes shall be entered promptly after the amendment has been approved by the City Council, with an entry on the Official Zoning Maps, or Flood Plain Maps, as follows: "On the following dates, by action of the City Council, the following amendments to the Official Zoning Or Official Flood Plain Maps, were made", such entry shall be signed by the Mayor and attested by the City Clerk. No amendments to this Ordinance, which involves matter portrayed on the Official Zoning Maps or Official Flood Plain Maps, shall become effective until after such entry shall be made on said map.

Section 10.8. AMENDMENT PROCEDURE

The regulations, restrictions, and boundaries set forth in this Ordinance may, from time to time be amended, supplemented, changed or repealed by the affirmative vote of a majority of the total membership of the Arvada City Council. Said amendments, supplements, changes or repeal of this Ordinance or any section thereof or the official zoning maps or any of them, may be initiated by any person, firm or corporation; or by the Planning Commission; or by the City Council. However, before final action by the City Council may be taken, the following procedures must have occurred:

A. Submission of a complete application including payment of the fee for filing the applications.

B. Applications for any such amendments, supplements, changes or repeal filed by any person, firm, or corporation, shall be on forms provided by the City; shall state the name and address of the applicant, an accurate legal description of the property, the names and addresses of all persons, firms or corporations, who or which hold fee title in the property to be zoned or rezoned, as shown by the records of the Clerk and Recorder of the appropriate County as of the date of the application, the location of the property with reference to streets and addresses, if any present zoning of the property, the requested zoning; and the reasons for the requested zoning, and shall be signed by the applicant, or his duly authorized representative.

The Planning Commission and City Council are not limited to the above examples, and other conditions may be imposed as long as they preserve and promote the public health, safety, and welfare of the inhabitants of the City of Arvada and the public generally and encourage and facilitate the orderly growth and development of the City of Arvada.

CERTIFICATE OF MAILING

I certify that copies of the foregoing Brief have been mailed to the following listed parties of record by first class mail, postage prepaid, this 28 day of May, 1980.

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