

Table of Contents

Article	Section 8 - Page
8 AMENDMENTS.....	8-1
8-A GENERAL	8-1
8-B METHOD OF INITIATING AMENDMENTS	8-1
8-C AMENDMENTS WITH PROFFERED CONDITIONS.....	8-1
8-D ACTION BY PLANNING COMMISSION.....	8-4
8-E ACTION BY TOWN COUNCIL.....	8-4
8-F WITHDRAWAL OF PETITIONS	8-6
8-G LIMITATION ON FILING NEW PETITION AFTER DENIAL	8-6

8 AMENDMENTS

8-A GENERAL

Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the Town Council may amend, supplement, or change this Zoning Ordinance, including the Schedule of District Regulations and the official Zoning Map (Rezoning).

8-B METHOD OF INITIATING AMENDMENTS

Amendments to the Ordinance may be initiated by one of the following methods:

8-B-1 Petition of Property Owner

- 8-B-1-a A property owner may initiate a request for an amendment to the official Zoning Map (Rezoning) by filing a petition with the Town Council on forms provided by the Zoning Administrator, and paying the applicable fee.
- 8-B-1-b A property owner may request the Town Council or Planning Commission approve a resolution initiating a proposal to amend the text of the Zoning Ordinance (as described in sections 8-B-2 or 8-B-3, below). If the Council or Commission approves such resolution, the property owners shall pay the applicable fee.
- 8-B-1-c The Zoning Administrator, on behalf of the Town Council, shall refer the petition to the Planning Commission at their next regular monthly meeting for consideration. A recommendation shall be reported to the Town Council within 100 days after the first meeting of the Planning Commission after the petition is referred to it.

8-B-2 Town Council Resolution

The Town Council may initiate a proposal of an amendment to the Ordinance by the adoption of a resolution proposing the amendment. Such resolution, upon adoption, shall be referred to the Planning Commission at their next regular monthly meeting for consideration. A recommendation shall be reported to the Town Council within 100 days after the first meeting of the Planning Commission after the resolution is referred to it.

8-B-3 Planning Commission Resolution

The Planning Commission may initiate a proposal of an amendment to the Ordinance by the adoption of a resolution proposing the amendment.

8-C AMENDMENTS WITH PROFFERED CONDITIONS

8-C-1 Proffer of Conditions

Prior to any public hearing before the Planning Commission and/or the Town Council, any applicant for rezoning under Section 8-B-1 above may voluntarily proffer, in writing, reasonable conditions to be applied to such rezoning as part thereof. Such conditions shall comply with the provisions of Section 15.2-2297 of the Code of Virginia.

8-C-2 Effects of Conditions

Upon the approval of any such rezoning, all conditions so proffered and accepted by the Town Council shall be deemed a part thereof and nonseverable there from and shall remain in force until amended or varied by the Town Council in accordance with Section 15.2-2302 of the Code. All such conditions shall be in addition to the regulations provided for the district by the Ordinance.

- 8-C-3 Zoning Map Notation
Each rezoning shall be designated on the Zoning Map by an appropriate symbol designed by the Zoning Administrator. In addition, the Zoning Administrator shall keep and maintain the conditional zoning index which shall be available for public inspection and which shall provide ready access to the ordinance creating such conditions.
- 8-C-4 Authority of Zoning Administrator
The Zoning Administrator shall be vested with all necessary authority on behalf of the Town Council to administer and enforce conditions attached to a rezoning. Such authority, includes:
- a. ordering, in writing, the remedy of any noncompliance with such conditions; and
 - b. bringing of legal action to insure compliance with such conditions, including injunction, abatement, or other appropriate action or proceeding; and requiring a guarantee satisfactory to the governing body. The guarantee shall be in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions or a contract for the construction of such improvements and the contractor's guarantee in like amount and so conditioned. The guarantee may be reduced or released by the governing body, or agent thereof, upon the submission of satisfactory evidence that construction of said improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits as may be appropriate.
- 8-C-5 Petition for Review of Decision
Any zoning applicant who is aggrieved by the decision of the Zoning Administrator pursuant to the provisions of Section 8-C-4 above may petition the governing body for a review of the decision of the Zoning Administrator.
- 8-C-6 Site Development Plan
Every petition for zoning amendment which proposes conditions to be applied to the rezoning shall be accompanied by 15 copies of a site development plan prepared in accordance with the requirements of Article 6 of this Ordinance. In addition to the application forms and site development plan, each application for conditional rezoning shall include:
- 8-C-6-a A statement explaining the relationship of the development to the adopted Comprehensive Plan of the Town.
 - 8-C-6-b A statement or presentation setting forth the maximum number of dwelling units proposed for any residential development, and the density and open space calculations when required by this Ordinance.
 - 8-C-6-c A statement certifying that the proposed development conforms to the provisions of all applicable ordinances, regulations and adopted standards. Any waiver, exception or variance sought by the applicant from such ordinances, regulations and standards shall be specifically noted on the development plan.
 - 8-C-6-d A statement of those special amenities that are proposed within the development.
 - 8-C-6-e A statement of the public improvements, both on and off-site, that are proposed for dedication and/or construction, and an estimate of the timing of providing such improvements.

- 8-C-6-f A statement setting forth the proposed approximate development schedule.
- 8-C-6-g Any additional information that the applicant may desire to proffer in the consideration of the application.
- 8-C-7 **Statement Regarding Conditions**
All petitions, statements, plans, and other materials submitted with an application for conditional zoning shall be annotated with the following statement signed by the applicant and the owner. The following signed statement shall be made available prior to the public hearing before the Town Council: "I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission."
- 8-C-8 **Proffered Condition Regulations**
Proffered conditions shall include written statements, development plans, and/or other materials proffered in accordance with the provisions of Section 8-C-1 above and approved by the Town Council in conjunction with the approval of an amendment to the Zoning Map. Proffered conditions shall be subject to the following procedures and regulations:
- 8-C-8-a Once conditions to be proffered are signed and made available, and the public hearing before the Town Council has commenced, no change or modification to any condition shall be made and no additional conditions shall be proffered at that public hearing.
- 8-C-8-b If the amendment to the Zoning Map is adopted subject to the conditions proffered by the applicant as set forth above, then the property in question shall be appropriately annotated on the Zoning Map and all other land records referencing the conditions as adopted.
- 8-C-8-c Such proffered conditions shall become a part of the zoning regulations applicable to the property in question, unless subsequently changed by an amendment to the Zoning Map. Such conditions shall be in addition to the specific regulations set forth in this Ordinance for the zoning district in question.
- 8-C-8-d Upon approval, any site plan, subdivision plat or development plan thereafter submitted for the development of the property in question shall be in substantial conformance with all proffered conditions and no development shall be approved by any County official in the absence of said substantial conformance.
- 8-C-8-e For the purposes of this Section, substantial conformance means conformance with a reasonable margin for adjustment due to final engineering data but conforms to the general nature of the development, the specific uses, and the general layout depicted by the plans, and other material presented by the applicant.
- 8-C-8-f An application shall be filed for an amendment of the approved conditions that would not be in substantial conformance with the proffered conditions or for a request to proffer conditions on a parcel not currently the subject of a proffered condition. Such amendment shall be the subject of public hearing in accordance with the provisions of Section 8-E-1 below. If the amendment concerns an approved site development plan, such application shall include the submission requirements for a site development plan set forth in Section 8-C-6 above. The Zoning Administrator may waive any submission requirement if such requirement is not necessary for an adequate review of the generalized development plan amendment application.

8-D ACTION BY PLANNING COMMISSION

- 8-D-1 Public Hearing
Upon a property owner petition or Town Council resolution being referred to it, or upon passage of a resolution by the Planning Commission, the Planning Commission shall hold a public hearing on the petition or resolution as provided by Section 15.2-2285, Code of Virginia, 1950, as amended, after publishing notice as required by Section 15.2-2204, Code of Virginia, 1950, as amended, and in accordance with the requirements of Section 10-E of this ordinance.
- 8-D-2 Recommendation by Commission
 - 8-D-2-a Following the public hearing, the Planning Commission shall report to the Town Council its recommendation with respect to the proposed amendment.
 - 8-D-2-b Failure of the Planning Commission to report to the Town Council within 100 days after the first meeting of the Commission following the referral of the petition or resolution to it, shall be deemed a recommendation of approval by the Commission of the proposed amendment.
 - 8-D-2-c The Planning Commission, in making recommendations on the proposed amendment, may recommend appropriate changes in the proposed amendment. However, before recommending that land that was not included in the proposed amendment be rezoned or that land included in the proposed amendment be rezoned to a different use classification than proposed, the Commission shall hold a further public hearing after giving notice as required by Section 15.2-2204, Code of Virginia, 1950, as amended, and in accordance with the requirements of Section 10-E of this ordinance.
 - 8-D-2-d Before making a recommendation, the Commission may require the applicant to furnish such information as it may deem necessary in order to determine whether the proposed amendment is detrimental to the public health, safety, or general welfare. Such a determination shall be based on the specific findings listed in 8-E-2-c. The Commission may make any additional findings it may deem appropriate.
 - 8-D-2-e Burden of Proof
The burden of proof shall be on the applicant to show the reasonableness of the proposed amendment, the lack of adverse effect, and compliance with the elements of public health, safety, and general welfare as set forth in Section 8-E-3.

8-E ACTION BY TOWN COUNCIL

- 8-E-1 Public Hearing
After receiving the recommendation of the Planning Commission, and before acting on a proposed amendment, the Town Council shall hold a public hearing, as provided in Section 15.2-2285, Code of Virginia, 1950, as amended, after giving public notice as required by Section 15.2-2204, Code of Virginia, 1950, as amended, and in accordance with the requirements of Section 10-E of this ordinance.
- 8-E-2 Action by Town Council
 - 8-E-2-a After holding the public hearing, the Town Council shall act upon the proposed amendment. The Town Council may make appropriate changes or corrections in the proposed

amendment. However, no land may be zoned to a different use classification than was contained in the public notice of the public hearing, without an additional public hearing after notice required by Section 15.2-2204, Code of Virginia, as amended.

8-E-2-b The Town Council shall enact amendments to this ordinance in the same manner by as all other ordinances.

8-E-2-c **Burden of Proof**
The burden of proof shall be on the applicant to show the reasonableness of the proposed amendment, the lack of adverse effect, and compliance with the elements of public health, safety, and general welfare as set forth in Section 8-E-3.

8-E-3 **Criteria for Action on Proposed Amendment**
Before taking action, the Town Council may require the applicant to furnish such information, as it may deem necessary in order to determine whether the proposed amendment is detrimental to the public health, safety, or general welfare. Such a determination shall be based on the following specific findings.

8-E-3-a Will be consistent with the Comprehensive Plan of the Town.

8-E-3-b Will be consistent with the Purposes and Intent of this Ordinance.

8-E-3-c Will not have an undue adverse impact on the short-term and long-term fiscal resources of the Town or the County for education, water, sewage, fire, police, rescue, solid waste disposal or other services. Will be consistent with the capital improvement goals and objectives of the Comprehensive Plan, to the end that growth of the community will be consonant with the efficient and economic use of public funds.

8-E-3-d Will not cause an undue adverse effect on neighboring property values without furthering the goals of the Comprehensive Plan to the benefit of the Town.

8-E-3-e Will not cause unreasonable traffic congestion or unsafe conditions on existing or proposed public roads and has adequate road access.

8-E-3-f Will not cause destruction of or encroachment upon historic or archeological sites, particularly properties under historic easement.

8-E-3-g Will have sufficient water available for its foreseeable needs.

8-E-3-h Will not cause unreasonable depletion of or other undue adverse effect on the water source(s) serving existing development(s) in adjacent areas.

8-E-3-i Will not cause undue surface or subsurface water pollution.

8-E-3-j Will not cause an undue adverse effect on existing or proposed septic systems in adjacent areas.

8-E-3-k Will not cause unreasonable soil erosion.

8-E-3-l Will have adequate facilities to provide safety from flooding, both with respect to proposed structures and to downhill/downstream properties.

8-E-3-m Will not cause undue air pollution.

8-E-3-n Will not cause undue noise, light or glare, dust, odor, fumes, or vibration.

8-F WITHDRAWAL OF PETITIONS

A petition by a property owner proposing an amendment may be withdrawn at any time. If the petition is withdrawn after the Planning Commission has commenced its public hearing on the petition, no new petition concerning any of the same land shall be filed by a property owner within 12 months of the withdrawal. However, the body before whom the petition is pending at the time may specify by resolution or motion that the time limit shall not apply or that a shorter time limit applies.

8-G LIMITATION ON FILING NEW PETITION AFTER DENIAL

8-G-1 Upon denial by the Town Council of any petition for amendment filed by a property owner, no new petition shall be filed within 12 months of the date of denial. This limitation shall not apply to applications for conditional zoning.

8-G-2 Nothing in this Section or in Section 8-F above shall be held to impair the right of the Planning Commission or the Town Council by resolution to propose any amendment at any time.