

ARTICLE 12
AMENDMENTS

Section 12.1 Amendments to Text and Map

Zoning regulations and restrictions and district boundaries may from time to time be amended, supplemented, changed, modified or repealed in the following manner. Requests for conditional zoning map amendments shall follow the procedures contained in Section 12.1.11. All other zoning map and text amendments shall follow the procedures contained in Sections 12.1.2 through 12.1.10.

- a) The Planning Board or the Town Council of the Town of Mineral Springs or any person may institute an application for a change in the text or a change in the zoning map.

- 12.1.2** For a reclassification of property proposed by any person or entity other than the Town, an application for a rezoning of a particular piece(s) of property and change in the zoning map shall be made on a form provided by the Zoning Administrator. All expenses incurred by the Town for the processing of a rezoning application shall be paid by the applicant prior to the issuance of a final notification of action taken.

Each non-contiguous parcel of land for which rezoning is requested shall be considered as a separate application, and a fee (as established by the Town Council) shall accompany each such application. There shall be no fee for applications initiated by any Town of Mineral Springs governmental agency. For the purpose of this section, land traversed, and/or adjoining property shall be construed to mean and include property on the opposite side of any street, stream, railroad, road or highway from the property sought to be rezoned. In the event the owner of the property, sought to be rezoned owns additional property or properties adjoining the property in question said additional property shall also be construed to mean and be included in the property of the owner sought to be rezoned. Said additional property may or may not be included in the rezoning application, at applicant's discretion.

- 12.1.3** An application for a change in the text, by any person or entity other than the Town shall be made, on a form provided by the Zoning Administrator and the filing fee and the disposition of associated expenses shall be the same as stated in Section 12.1.2. The application shall contain a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as exact wording of the proposed change and the reasons therefore.

- 12.1.4** Once a completed application has been received by the Zoning Administrator, and the fees paid, he shall promptly review it, and if complete, he shall refer

the application to the Planning Board for consideration at its next regularly scheduled meeting.

The Planning Board shall have thirty (30) calendar days from the date of referral by the Zoning Administrator to review the application and to submit its recommendation to the Town Council. If a recommendation is not made during said time period, the application shall be forwarded to the Town Council without a recommendation.

A Planning Board member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

12.1.5 The Planning Board may make one of the following recommendations to the Town Council. If the petition is for rezoning and change in the zoning map, then the Planning Board may make one of the following recommendations:

- a) Grant the rezoning as requested, or
- b) Grant the rezoning with a reduction of the area requested, or
- c) Grant the rezoning to a more restricted district or districts, or (for the purposes of this Article the zoning districts of this Ordinance are listed in the following order from most restrictive to least restrictive: AR, RR, RA-40, R-20, RA-20, MUD, B-2, B-4, LI), or
- d) Deny the application.

Upon making a recommendation, the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

12.1.6 If the petition is to amend the text of this Ordinance, the Planning Board may make one of the following recommendations to the Town Council.

- a) A statement approving the proposed zoning amendment and describing its consistency with the plan;
- b) A statement rejecting the proposed zoning amendment and describing its inconsistency with the plan; or
- c) A statement approving the proposed amendment and declaring that this

also amends the plan, along with an explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment.

The Zoning Administrator shall transmit any decision of the Planning Board to the Town Council.

12.1.7 Notification of the public hearing shall be made in the following manner:

- a) A notice shall be published in at least one (1) newspaper having general circulation in the area once a week for two (2) successive weeks, the first notice to be published not less than ten (10) calendar days nor more than twenty-five (25) calendar days prior to the date established for the hearing. In computing such time the date of publication is not to be included but the date of the hearing shall be included.
- b) A notice shall be placed at a conspicuous public place within the corporate limits of the Town not less than ten (10) calendar days nor more than twenty-five (25) calendar days before the date established for the public hearing.
- c) A notice shall be posted in a conspicuous place on the subject property or on an adjacent street or highway right-of-way at least ten (10) calendar days prior to the public hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested parties.
- d) At least ten (10) calendar days prior to the public hearing, a notice of the proposed zoning change shall be sent by first class mail to all adjacent property owners that lie within two-hundred (200) feet as measured in all directions from the exterior boundaries of the property(ies) proposed for rezoning. In the case of large-scale rezonings (more than fifty (50) properties owned by a total of at least fifty (50) different property owners), the Town may elect to publish notice of hearing per 12.1.7 (a), provided that each of the advertisements shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulations of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail.
- e) The Zoning Administrator shall certify that the requirements of subsections 12.1.7 (b), (c) and (d) have been met. The Town shall charge the petitioner a separate fee to cover costs incurred.

12.1.8 A written petition of protest may be filed with reference to any proposed

change to the zoning map. In case of a protest against such change an amendment shall not become effective except by three-fourths (3/4) vote of the Town Council. For purposes of this subsection, vacant positions on the Council and members who are excused from voting shall not be considered 'members of council' for calculation of the requisite three-fourths vote. To qualify as a protest, the petition must be signed by the owners of either (I) twenty percent (20%) or more of the area included in the proposed change or (II) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot-buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine the 'owners' of potentially qualifying areas. A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth in this Ordinance at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement. This section shall not be applicable to any amendment which initially zones property added to the territorial coverage of this Ordinance as a result of annexation or otherwise.

- a) No protest against any proposed change shall be valid or effective unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment and unless it shall have been received by the Town Clerk in sufficient time to allow the Town at least five (5) normal work days excluding Saturdays, Sundays and legal holidays before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. All protest petitions shall be on a form prescribed and furnished by the Zoning Administrator and such form may prescribe any reasonable information deemed necessary to permit the Zoning Administrator to determine the sufficiency and accuracy of the petition. No fees for processing any such petition shall be assessed by the Town.
- 12.1.9** After the public hearing has been conducted and officially closed, the Town Council shall render a decision concerning the proposal not later than the next regularly scheduled Town Council meeting. The decision shall be made in any one of the methods provided in Sections 12.1.5 or 12.1.6. A Town Council member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.
- 12.1.10** Prior to adopting or rejecting any zoning amendment, the Town Council shall

adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the Town Council considers the action taken to be reasonable and in the public interest.

12.1.11 Conditional Use (CD) Districts

a) Application

1. Petitioning for a CD zoning district is a voluntary procedure and can be initiated only by the owner(s) of the property (ies) in question or by his/her authorized agent. Every application for the rezoning of property to a CD district shall be accompanied by a site plan, drawn to scale containing all of the information outlined in Section 6.3.1 of this Ordinance. The Zoning Administrator shall have the authority to waive, on a case-by-case basis, the inclusion of any item otherwise required, where in the Zoning Administrator's opinion, the omission of said item shall not have a meaningful effect on the review of the site plan and the rezoning application. The Zoning Administrator shall schedule a meeting with the applicant, prior to any public information meeting (PIM) being advertised and/or held to review the rezoning application and site plan to make sure that it meets, at a minimum, all minimum requirements of this Ordinance.

The submitted conditional rezoning application and the site plan shall each clearly identify any conditions that are proposed that are less restrictive from the requirements that would normally apply to the proposed development per the underlying general zoning district contained in the rezoning application. Thus, if a piece of property were proposed to be rezoned to CD B-2, only uses allowed in the B-2 district may be proposed and approved for this conditional district rezoning.

2. No application shall be considered complete unless it is accompanied by a fee, in accordance with a fee schedule approved by the Town Council for the submittal of an application for rezoning to a CD district.
3. The Zoning Administrator may require the petitioner to submit more than one copy of the rezoning application in order to have enough copies available to circulate to other government agencies for review and comment. When dealing with the conditional zoning district process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the Zoning Administrator, Planning Board or Town Council may request additional information as they deem necessary.

4. The deadline for submittal of a complete application shall be at least twenty-one (21) days prior to the public information meeting.

b) Public Information Meeting (PIM)

1. Once the complete application has been deemed complete by the Zoning Administrator and requisite fees paid, a public information meeting (PIM) shall be scheduled and held. Such meeting shall occur prior to any recommendation being made by the Planning Board. The PIM is designed to provide a framework for creating a shared vision with community involvement in accordance with the following requirements:
 - a. The applicant shall attend the PIM to present the proposed plans of development and answer questions from citizens, service providers and others.
 - b. The date, location and time of the PIM shall be scheduled by the Town. Any PIM shall be scheduled to last for a minimum of one (1) hour. The Town reserves the right to schedule and advertise a longer PIM depending on the nature of the proposed rezoning and its location. The PIM may be conducted at either the Town Hall and/or the proposed rezoning site.
 - c. Notice of the PIM shall at a minimum, be given as follows:
 1. A notice shall be published by the Town in a newspaper having general circulation in Mineral Springs not less than ten (10) days nor more than twenty-five (25) days prior to the date of the PIM. A notice shall also be sent by first class mail by the Town to the owners of all properties that lie within two-hundred (200) feet as measured in all directions from the exterior boundaries of the proposed development. Such notice shall be sent not less than ten (10) nor more than twenty-five (25) days prior to the date of the PIM. Each notification shall contain information regarding the PIM date, time and location as well as a general description of the rezoning proposal.
 2. A PIM notification sign shall be posted by the Town in a conspicuous place at the property not less than ten (10) nor more than twenty-five (25) days prior to the date of the PIM and shall remain in place until the PIM is concluded. The sign shall indicate the date, time, and location(s) of the PIM. In lieu of any

or all of this information to be contained on this posted notice, the notice may give a phone number where interested parties may call during normal business hours to get further information on the PIM.

- e. The Zoning Administrator or their designee shall attend the PIM and prepare notes of comments received during the PIM. A summary of the comments made shall be included in any staff report prepared by the Zoning Administrator relative to the rezoning request.
2. Following the PIM, the applicant shall have the opportunity to make changes to the application to take into account information and comments received. One or more revised copies of the application shall be submitted to the Zoning Administrator for review. No additional fee shall be required to be paid for making such changes provided the administrator receives the revised application within ten (10) days following the conclusion of the PIM.

c) Planning Board Review

1. Before any property is rezoned to a CD district, the Planning Board shall have had an opportunity to review and make a recommendation on the application. Such Planning Board meeting shall take place after the PIM is completed. The Planning Board may make one of the following recommendations:
 - a) Grant the rezoning as requested;
 - b) Grant the rezoning with a reduction of the area requested;
 - c) Grant the rezoning with additional conditions; or,
 - d) Deny the application.

The Planning Board shall have thirty (30) calendar days from the date of referral by the Zoning Administrator to review the application and to submit its recommendation to the Town Council. If a recommendation is not made during said time period, the application shall be forwarded to the Town Council without a recommendation. Any Planning Board recommendation shall be accompanied by statements that address: (1) whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the Town Council and any other officially adopted plan that is applicable, and (2) other matters that the Planning Board deems appropriate and (3) why it considers the action taken to be reasonable and in the public interest.

2. Following the Planning Board recommendation, the Town Council shall conduct a public hearing on the case. Notification of this public hearing shall be per Section 12.1.7.

d) Action by the Town Council

A decision pertaining to conditional zoning districts is a legislative process subject to judicial review using the same procedures and standard of review as applied to general district zoning decisions. Once the public hearing has been held, the Town Council shall take action on the petition. The public hearing, once opened, can be continued to a later date and action take at that time. The Town Council shall have the authority to:

1. Approve the application as submitted;
2. Deny approval of the application; or
3. Approve the application with additional conditions and/or deviations from the requirements of this Ordinance, per Subsection 5 below, that are mutually agreed to by the applicant and the Town Council; or,
4. Submit the application back to the Planning Board for further study. The Planning Board shall have up to 30 days from the date of such submission to make a report to the Town Council. If no report is issued, the Town Council can take final action on the petition. The Town Council reserves the right to schedule and advertise a new public hearing based on the Planning Board's report.
5. In approving a petition for the reclassification of a property to a CD district, the Planning Board may recommend, and the Town Council may require that reasonable and appropriate conditions be attached to approval of the petition. Such conditions shall be limited to those that address the conformance of the development and use of the site to any Town ordinances and officially adopted comprehensive land use plan or other officially adopted plans and those that address the impacts reasonably expected to be generated by the development or use of the site. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Council. Except as provided below, none of these conditions shall be less restrictive than any requirements that would otherwise pertain to that particular development if it were located in the corresponding general zoning district.

The Town Council, however, reserves the right to allow for a lessening of one or more of the design, density, signage, screening/landscaping,

parking or dimensional standards contained in this Ordinance that otherwise would be required. Any such deviations may be approved by the Town Council only if they first determine that the proposed rezoning, together with the deviations, is (1) substantially in keeping with the intent and purpose of this Ordinance and (2) would not affect the degree to which the property is in harmony with other nearby properties. Any such deviations initially proposed by the applicant shall be clearly stated on the zoning application and site plan, and addressed by the applicant at the PIM, planning board meeting and Town Council public hearing.

Any action taken by the Town Council on a conditional district rezoning shall be accompanied by statements that: (1) analyze whether the rezoning is consistent with an adopted comprehensive plan and any other officially adopted plan, and (2) why it considers the action taken to be reasonable and in the public interest.

e) Effect of Approval; Zoning Map Designation

If a petition for a CD district is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's zoning classification, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the zoning map. Following the approval of the petition for a CD district, the subject property shall be identified on the zoning map by the appropriate district designation preceded by the letters CD (i.e., CD-RA-40.)

Once a CD district has been approved by the Town Council, the Zoning Administrator shall have the authority to allow for minor deviations from the approved site plan when, in the Zoning Administrator's opinion, such deviation (1) would not materially impact any adjacent or nearby properties, (2) is not in conflict with the spirit and intent of this Ordinance; and (3) would uphold the public's general interest and well-being. Any deviations that are deemed by the Administrator not to be "minor" shall require the submittal of a new conditional zoning application.

Any approved conditional zoning district shall be recorded by the Town in the Union County Register of Deeds within thirty (30) days of Town Council approval.