

ARTICLE 24. - REZONING AND AMENDMENTS

Sec. 18-243. - Amendments.

The Town Council may, from time to time, amend, supplement, or change the provisions of this chapter, zone boundaries, or rezone property. Before taking any action on any proposed amendment, supplement, change, or rezoning which has been initiated by itself or a property owner, the Town Council shall submit the same to the planning commission for its recommendation and report.

(Code 1969, § 18-243)

Sec. 18-244. - Rezoning (changes to the zoning map).

An application for rezoning of property may be made by the owner, contract owner or optionee of the property which is proposed to be rezoned which shall be submitted to the Town Council on a standard form, accompanied by a plat by a certified surveyor and the fee specified in the schedule of fees adopted by the Town. Such plat shall show the boundaries of the land for which rezoning is requested, the boundaries of all contiguous land in which the applicant has any interest and all abutting streets and alleys. In addition, the applicant shall furnish to the council a map showing the location of the applicant's land, the zoning classification of all abutting land and land lying on the opposite sides of streets and alleys abutting the land for which rezoning is requested and such other information as may be required by the planning commission and council to properly evaluate the application. All such plats and maps shall be current at the time the application is filed.

(Code 1969, § 18-244)

Sec. 18-245. - Reapplication for rezoning.

No application for any change to the same or a less restricted classification of zoning of the same lot, plot, parcel, or portion thereof, shall be considered by the Town Council and the planning commission within 12 months of the final action of the Town Council upon the prior application. This provision, however, shall not impair the right of the Town Council to propose a change of zoning on its own motion.

(Code 1969, § 18-245)

Sec. 18-246. - Planning commission notice and hearing.

- A. The planning commission shall hold a public hearing on the proposed amendment, supplement, change, or rezoning referred to it by the Town Council for its recommendation. Notice of public hearings before the commission shall be given by publishing the time, place

and notice of the hearing once a week for two successive weeks in a newspaper having a paid general circulation in the Town. The public hearing shall be held not less than five nor more than 21 days after final publication.

- B. In addition, in cases where property is proposed for rezoning, the commission shall cause the property concerned to be posted at least ten days prior to the date of the hearing before said commission. When the proposed rezoning involves 25 or fewer parcels of land, written notice by registered or certified mail shall be given by the planning commission at least five days before the hearing to the owner or owners, their agent or the occupant of each parcel involved, and to the owners, their agent or occupant of all abutting property and property immediately across the street or road from the property affected, whether such property is in the Town or county.
- C. After the public hearing, the planning commission shall submit its recommendations to the Town Council.

(Code 1969, § 18-246; Ord. of 11-1968; Ord. of 4-1969; Ord. of 6-1975; Ord. of 11-17-1975; Ord. of 2-25-2002)

Sec. 18-247. - Town Council to give notice and hold hearing.

Before considering any proposed amendment, supplement, change, or rezoning, the Town Council shall hold a public hearing thereon, notice of said hearing to be accomplished as prescribed in section 18-246. The planning commission and council may hold a joint public hearing after the public notice as set forth in section 18-246. If such joint hearing is held, then public notice as set forth above need be given only by the council. In the case of a proposed amendment to the zoning map, such public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan.

(Code 1969, § 18-247; Ord. of 11-1968; Ord. of 12-2-1991)

Sec. 18-248. - Protest against proposed change.

In case of a protest against any change of zone boundaries or rezoning of property signed by 25 percent, or more, of either of the following groups:

- (1) The owners of lots included within the area of the proposed change; or
- (2) The owners of lots abutting the area included in such proposed change, and the owners of lots directly opposite the area included in such proposed change, where such area abuts upon a street.

Such change shall not become effective except by a favorable two-thirds vote of the Town Council quorum present.

For purposes of this section, a protest petition must be submitted in writing and received by the Town Clerk no later than 12:00 noon on the working day before the day of the first public hearing on the application or motion is first conducted by the Town Council. The owners of any lots submitting any such protest petition shall execute such protest petition under oath that they are the legal owner or authorized representative of any such lot owner. If the owner of any lot is a corporation or condominium, the petitioner shall submit the appropriate documentation demonstrating he/she is the authorized representative for the lot owner.

(Code 1969, § 18-248; Ord. of 8-21-2017, § 1)

Sec. 18-249. - Basis for determination.

In determining what, if any, amendments to this chapter are to be adopted, the Town Council shall give due consideration to the proper relationship of such amendments to the entire comprehensive plan for the Town, with the intent to retain the integrity and validity of the zoning districts herein described, and to avoid spot zoning changes in the zoning map.

(Code 1969, § 18-249)

Sec. 18-249.1. - Conditional zoning and proffers.

As a condition to any rezoning or amendment to the zoning map, the council may suggest reasonable conditions, in addition to the regulations provided for the zoning district or zone by this Code, provided such conditions are voluntarily proffered in writing by the owner prior to public hearing before the council and provided further that:

- (a) The rezoning itself must give rise for the need for the conditions;
- (b) Such conditions shall have a reasonable relation to the zoning;
- (c) Such conditions may include a cash contribution to the Town in accordance with the Virginia State Code. Cash proffers may be used for any public improvements consistent with the Town's adopted Capital Improvement Plan and/or goals set forth in the Town's Comprehensive Plan to address transportation and other public facility needs and impacts;
- (d) Such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in the Town's subdivision, site plan or other Town ordinances;
- (e) Such conditions may include payment for or construction of off-site improvements to address transportation and public facility impacts; not already provided for in the Town's subdivision or site plan ordinances;
- (f) Except for off-site transportation and public facility improvements, no condition shall be

proffered that is not related to the physical development or physical operation of the property; and

- (g) All such conditions shall be in conformity with the comprehensive plan.

(Code 1969, § 18-249.1; Ord. of 9-17-1979; Ord. of 5-23-2016(2), § 1)