

Sec. 42-34. Amendments.

- (a) Whenever the public necessity, convenience, general welfare or good zoning practice requires, the council may amend, supplement or change the regulations of the zoning ordinance, or the zoning boundaries or classification of property on the zoning map, in conformity with the provisions of Code of Virginia, § 15.2-2286.A.7.
- (b) Amendments to the text of the ordinance and/or changes in the zoning boundaries or classification of properties shown on the zoning map may be initiated by resolution of the town council, motion of the planning commission, or by petition of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor of the property which is the subject of the proposed zoning map amendment, addressed to the town council.
- (c) Petitions for zoning map amendments shall be on a standard form provided by the town. Applicants shall submit a written statement of justification describing: (1) the appropriateness of the proposed uses based on the Comprehensive Plan; (2) the existing character and use of the subject property and suitability for various uses, compatibility of proposed uses with uses permitted and existing on other properties in the immediate vicinity, and degree to which the proposed uses are anticipated to affect the fiscal situation of the Town of Lovettsville and property values in the immediate vicinity of the subject property; and (3) adequacy of, and the needs and requirements for, new, additional or upgraded public utilities, streets, sidewalks, trails, parks, playgrounds, recreational areas and other public or private facilities or services as allowed by law attributable to the proposed use(s). Any such petition or application for a zoning map amendment involving a "new residential development" or "new residential use" pursuant to subsection (e) of this section shall include in the statement of justification a description of how any "onsite proffers" submitted in connection therewith address an impact that is specifically attributable to the proposed new residential development or other new residential use for which the application was submitted in accordance with §15.2-2303.4 of the Code of Virginia.
- (d) Prior to filing an application pursuant to this section an applicant shall meet with the zoning administrator and appropriate staff to discuss the applicant's intentions with regard to a given application and questions regarding the procedures or substantive requirements of this chapter. The zoning administrator may waive the pre-application conference requirement in cases where the zoning administrator finds that such waiver is not anticipated to affect the submission or review of the proposed application. A request for a pre-application conference, or to waive the pre-application conference, shall be made in writing to the zoning administrator and shall be accompanied by a concept plan of the site illustrating the location of proposed uses, a description of the proposed project or use, and a list of the issues to be discussed at the conference or justification for the waiver. No matters discussed at said meeting shall be binding on either the applicant or the Town. The zoning administrator shall respond to each written request for a pre-application conference or waiver within ten (10) business days. Applicants shall, at the time of request or upon filing an application for zoning map amendment, provide satisfactory evidence that all real estate taxes which have been assessed against the property which is the subject of the application and all other town charges due and owing from the property owner and applicant have been paid.
- (e) The conditional zoning provisions set forth in Code of Virginia, §§ 15.2-2297, 15.2-2303 and 15.2-2299—15.2-2303.4, as amended and as applicable, are incorporated as part of this chapter as if set forth fully herein. As part of an amendment to the zoning map by legislative action for any property subject to this chapter, the Town may request, consider

and accept reasonable conditions and amendments thereto governing the use of such property as set forth in §15.2-2303 when the same are proffered by the landowner as part of his application for a zoning map amendment, provided that the provisions of §15.2-2303 shall not apply to any such application involving a “new residential development” or “new residential use” as those terms are defined in §15.2-2303.4. Reasonable conditions or amendments thereto proffered as part of any application for an amendment to a zoning map involving a “new residential development” or “new residential use” shall be subject to the limitations set forth in §15.2-2297 of the Code of Virginia and shall only include submission by the applicant, and consideration and acceptance by the Town, of “onsite proffers” not deemed unreasonable pursuant to §15.2-2303.4. Proffered conditions and amendments thereto shall be proffered in writing in advance of the public hearing before the town council and signed by all persons having an ownership interest in the property which is the subject of the zoning map amendment. Proffered conditions submitted in accordance with this section shall be submitted to the zoning administrator at least seven (7) days prior to a public hearing before the planning commission or town council, and may include written statements, development plans, profiles, elevations, or other demonstrative materials. The planning commission and town council may also accept amended proffers after the public hearing has begun if the amended proffers impose a more restrictive standard and do not materially affect the overall proposal. Proffered conditions shall be notarized and contain a statement that the owners voluntarily enter into the conditions contained therein and that the conditions do not contain any unreasonable proffers as set forth in §15.2-2303.4 of the Code of Virginia.

- (f) Upon approval of a zoning map amendment with proffers, any site plan, subdivision plat, construction drawings or other application for development thereafter submitted shall be in substantial conformance with all proffered conditions. After adoption, any amendment of the conditions may be made only in accordance with the requirements imposed in this chapter and in Code of Virginia, title 15.2, ch. 22 (Code of Virginia, § 15.2-2200 et seq.).
- (g) Upon receipt of a properly filed amendment request or petition, the zoning administrator shall set a time and place for a public hearing by the planning commission on said amendment and direct that the public notice be given as required by Code of Virginia, § 15.2-2204. Costs of any notice required shall be taxed to the applicant.
- (h) Applicant shall be responsible for notifying all adjacent and adjoining property owners pursuant to the Code of Virginia of the date, time, subject and location of the public hearing. Costs of any notice required shall be taxed to the applicant.
- (i) Following the public hearing, the planning commission shall forward the proposed amendment to the council together with its recommendation and a statement fully setting forth its reasons for such recommendations. Failure of the planning commission to make a recommendation within 90 days after first such meeting of the commissioners subsequent to receipt of a proposed recommendation or such shorter period as may be set by the council shall be deemed approval by the commission of such amendment.
- (j) The town council may hold a separate public hearing on said application or may hold a joint public hearing with the planning commission with required notice given in accordance with by Code of Virginia, § 15.2-2204.
- (k) Council action. The council may approve or deny an amendment as submitted, rezone to a classification other than that requested by the applicant (provided that all notice requirements have been met), or may rezone only a portion of the area proposed for rezoning in the original petition.

- (l) Limitation on filing new petition after denial. No new petition concerning any or all of the same property shall be filed within twelve (12) months of the date of denial by the council of a substantially identical petition.
- (m) Withdrawal of petition. Any petition pursuant to subsection (b) of this section and section 42-33 may be withdrawn upon written request by the applicant any time upon payment in full of any outstanding permit or review fees and advertising costs, as applicable.

(Ord. of 9-21-2006, §§ 1-4, 10-8)