

ARTICLE XVIII
AMENDMENTS
(amended 01 March 2021)

Section 1800. Amendments.

This Zoning Ordinance, including the Zoning Map, may be amended by the Board of Alderman in accordance with the provisions of this Article.

Section 1801. Initiation of Amendments.

- (a) Proposed changes or amendments may be initiated by the Board of Alderman, the Planning Board, the Board of Adjustment, or one or more owners of property within the area proposed to be changed or affected.
- (b) Down-Zoning. – No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:
 - (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
 - (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

Section 1802. Application.

Before any action on a proposed change or amendment, an application shall be submitted to the office of the Zoning Administrator at least ten (10) days prior to the Planning Board's meeting at which the application is to be considered. The application shall contain the name(s) and address(es) of the owner(s) of the property in question, the location of the property, and a description and/or statement of the present and proposed zoning regulation or district. All applications requesting a change in the Zoning Map shall include a description of the property in question. The Planning Board and the Board of Alderman will not consider an application for property denied within the preceding twelve (12) months by the Board of Alderman.

Section 1803. Planning Board Action.

No action shall be taken until the proposal has been submitted to the Planning Board for review and recommendation. The Planning Board must consider any plan adopted according to G.S. 160D-501 when making a comment on plan consistency. If no recommendation has been received from the Planning Board within thirty-six (36) days after the first consideration of the application, the Board of Alderman may proceed as though a favorable report had been received.

Section 1804. Public Hearing.

Before enacting any amendment to this Ordinance, the Board of Alderman shall hold a public hearing. A notice of such public hearing shall be published in a newspaper of general circulation in West Jefferson once a week for two (2) successive weeks, the first publication shall not appear less than ten (10) days or more than twenty-five (25) days prior to the date fixed for the public hearing. The notice shall include the time, place and date of the hearing and include a description of the property or the nature of the change or amendment to the Ordinance and/or Map.

Section 1805. Written notice of proposed zoning amendment.

Whenever there is a proposed zoning amendment pertaining to a parcel of land, the owner of that parcel of land, and the owners of all parcels abutting that parcel of land, according to the records of the Ashe County Tax Office, shall be mailed a notice of the proposed zoning amendment by first class mail at least two weeks prior to the public hearing. For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor. The notice shall include the time, place and date of the hearing and include a description of the property or the nature of the change or amendment to the Ordinance and/or Map. This provision shall apply only when tax maps of the parcel subject to the zoning amendment is available. Mailing the notice to the address shown in the County Tax Office records constitutes compliance with this Section. The Town clerk shall certify to the Board of Alderman in writing compliance with this mailing requiring, and such certificate shall be deemed conclusive compliance in the absence of fraud.

Section 1806. Posted notice of proposed zoning map amendment.

When a zoning map amendment is proposed, the Town shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the 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 persons.

Section 1807. Decisions.

(a) The Board of Alderman shall make a decision on the proposed amendment within sixty (60) days after the public hearing.

(b) When adopting or rejecting any zoning text or map amendment, the Board of Aldermen shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan.

(c) If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan.

(d) When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Board of Aldermen. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Board of Aldermen statement on reasonableness may address the overall rezoning.

(e) Neither the Planning Board nor the Board of Aldermen shall consider specific development proposals on any property when considering an amendment involving the rezoning of such property.

(f) Under no circumstance shall the Board of Alderman adopt such amendments, supplements or changes that would cause this ordinance to violate the Water Supply Watershed Protection Rules as adopted by the NC Environmental Management Commission. All amendments to the water supply watershed protection regulations under the Zoning Ordinance must be filed within the NC Division of Water Quality, NC Department of Environmental Health and NC Division of Community Assistance.

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