

Chapter 16 - Land Use Ordinance

Article XX - Amendments

Section 16-320 Amendments in General.

(A) Amendments to the text of this chapter or to the zoning map may be made in accordance with the provisions of this article.

(B) The term “major map amendment” shall refer to an amendment that addresses the zoning district classification of five or more tracts of land in separate ownership or any parcel of land (regardless of the number of lots or owners) in excess of fifty acres. All other amendments to the zoning district map shall be referred to as “minor map amendments”.

Section 16-321 Initiation of Amendments.

(A) Whenever a request to amend this chapter is initiated by the board of aldermen, the planning board, the board of adjustment, the appearance commission, or the town administration, the town attorney in consultation with the planning staff shall draft an appropriate ordinance and present that ordinance to the board of aldermen so that a date for a public hearing may be set.

(B) Any other person may also petition the Board to amend this chapter. The petition shall be filed with the administrator and shall include, among the information deemed relevant by the administrator:

- (1) The name, address, and phone number of the applicant;
- (2) A description of the land affected by the amendment if a change in zoning district classification is proposed;
- (3) Stamped envelopes containing the names and addresses of all those to whom notice of the public hearing must be sent as provided in Section 16-323;
- (4) A description of the proposed map change or a summary of the specific objective of any proposed change in the text of this chapter;
- (5) A concise statement of the reasons why the petitioner believes the proposed amendment would be in the public interest.

(C) Upon receipt of a petition as provided in (B), the administrator shall either:

- (1) Treat the proposed amendment as one initiated by the town administration and proceed in accordance with subsection (A) if it believes that the proposed amendment has significant merit and would benefit the general public interest; or
- (2) Forward the petition to the Board with or without written comment for a determination of whether an ordinance should be drafted and a public hearing set in accordance with subsection (D).

(D) Upon receipt of a proposed ordinance as provided in subsection (A), the Board may establish a date for a public hearing on it. Upon receipt of a petition for an ordinance amendment as provided in

subsection (B), the Board may summarily deny the petition or set a date for a public hearing on the requested amendment and order the attorney, in consultation with the administrator, to draft an appropriate ordinance.

Section 16-322 Planning Board Consideration of Proposed Amendments.

(A) If the Board sets a date for a public hearing on a proposed amendment, it shall also refer the proposed amendment to the planning board for its consideration and may refer the amendment to the appearance commission if community appearance is involved.

(B) The planning board shall endeavor to review the proposed amendment in such a timely fashion that any recommendations it may have can be presented to the board at the public hearing on the amendment. However, if the planning board is not prepared to make recommendations at the public hearing, it may request the Board to delay final action on the amendment until such time as the planning board can present its recommendations.

(C) The Board need not await the recommendations of the planning board before taking action on a proposed amendment, nor is the Board bound by any recommendations of the planning board that are before it at the time it takes action on a proposed amendment.

Section 16-323 Hearing Required; Notice.

(A) No ordinance that amends any of the provisions of this chapter may be adopted until a public hearing has been held on such ordinance.

(B) The administrator shall publish a notice of the public hearing on any ordinance that amends the provisions of this chapter once a week for two successive weeks in a newspaper having general circulation in the Blowing Rock area. The notice shall be published for the first time not less than ten days nor more than twenty-five days before the date fixed for the hearing. This period is to be computed in accordance with G.S.1-594, which provides that the date of publication is not counted but the date of the hearing is.

(C) With respect to minor map amendments, the administrator shall mail written notice of the public hearing to the record owners for tax purposes of all properties whose zoning classification is changed by the proposed amendment as well as the owners of all properties any portion of which is within 150 feet of the property rezoned by the amendment.

(D) The planning staff shall also post notices of the public hearing in the vicinity of the property rezoned by the proposed amendment and take any other action deemed by the planning staff to be useful or appropriate to give notice of the public hearing on any proposed amendment.

(E) The notice required or authorized by this section shall:

- (1) State the date, time, and place of the public hearing;
- (2) Summarize the nature and character of the proposed change;
- (3) If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
- (4) State that the full text of the amendment can be obtained from the town clerk; and

(5) State that substantial changes in the proposed amendment may be made following the public hearing.

(F) The planning staff shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is the Board's intention that no failure to comply with any of the notice provisions (except those set forth in subsection (B) shall render any amendment invalid.

Section 16-324 Board Action on Amendments.

(A) At the conclusion of the public hearing on a proposed amendment, the Board may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

(B) The Board is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.

(C) Voting on amendments to this chapter shall proceed in the same manner as other ordinances, subject to Section 16-326.

Section 16-325 Ultimate Issue Before Board on Amendments.

(A) In deciding whether to adopt a proposed amendment to this chapter, the central issue before the Board is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the mayor and excluded. In particular, when considering proposed minor map amendments:

(1) The Board shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Board shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.

(2) The Board shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

Section 16-326 Protests to Zoning District Changes.

(A) If a petition opposing a change in the zoning classification is filed in accordance with the provisions of this section, then the proposed amendment may be adopted only by a favorable vote of three-fourths of the Board membership.

(B) To trigger the three-fourths vote requirement, the petition must:

(1) Be signed by the owners of twenty percent or more either of: (i) the lots included in a proposed change; or (ii) the lots within 100 feet of either side or the rear of the tract to be rezoned; or (iii) the lots directly opposite the tract to be rezoned and extending 100 feet from the street frontage of such opposite lots.

- (2) 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.
- (3) Be received by the town clerk in sufficient time to allow the town at least two normal working days before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.
- (4) Be on a form provided by the town clerk and contain all the information requested on this form.