

ARTICLE 22

AMENDMENTS

SECTION 22-1. INITIATION.

22-1-1 Whenever public necessity, convenience, general welfare, or good zoning practice requires, City Council may amend, supplement or change this Ordinance, including the schedule of district regulations and the official zoning map. Any such amendment may be initiated by resolution by City Council, by motion of the Commission, or by the petition of any owner of property within the City addressed to the Commission. (11/13/79, Ord. No. 024-79; 10/13/92, Case TA-92-02, Ord. No. 016-92)

22-1-2 A petition for an amendment may be withdrawn at any time, but if the Planning Commission has commenced its hearings on the petition, or if the petition has been denied by City Council, substantially the same petition shall not be reconsidered within twelve (12) months of withdrawal or denial. This provision shall not be held to impair the right of either the Planning Commission or the City Council to propose any amendment to this Ordinance on their own motion at any time. (11/13/79, Ord. No. 024-79)

22-1-3 **CONDITIONAL ZONING GENERALLY.** The following regulations shall apply to conditional zoning: (2/13/90, Case TA-89-10, Ord. No. 004-90)

a. **PROFFER OF CONDITIONS**

1. Applicants for changes in zone boundaries, as part of their application, may voluntarily proffer in writing prior to a public hearing before the City Council, reasonable conditions which shall be in addition to those regulations provided in this Ordinance and applicable to the particular zoning district sought in said application; provided that:

(a) the rezoning itself gives rise to the need for the conditions;

(b) such conditions have a reasonable relation to the rezoning; and

(c) all such conditions are in conformity with the comprehensive plan.

2. No proffer shall be accepted by the City Council unless a Capital Improvement Program has been adopted pursuant to applicable laws. In the event proffered conditions include the dedication of real property or payment of cash, such property shall not transfer and such payment of cash shall not be made until the facilities for such property is dedicated or cash is tendered are included in the Capital

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Improvement Program, provided that nothing herein shall prevent the City Council from accepting proffered conditions which are not normally included in such Capital Improvement Program. If proffered conditions include dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered.

- b. **AMENDMENTS OF CONDITIONS.** Once proffered and accepted as part of an amendment to the Zoning Ordinance, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions; however, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised Zoning Ordinance. Furthermore, there shall be no amendment or variation of conditions created pursuant to the provisions of this section until after a public hearing before the City Council which shall be advertised pursuant to Section 22-3 of this Ordinance.

22-1-4 **PROCEDURES.** Every petition shall be accompanied by a completed application provided for such purpose and a filing fee as per Section 23-8, evidence of delinquent tax payment per Section 23-9, and disclosure of real party interest per Section 23-10 of this Ordinance. (2/13/90, Case TA-89-10, Ord. No. 004-90; 3/13/90, Case TA-89-12, Ord. No. 009-90; 6/12/90, Case TA-89-11, Ord. No. 018-90; 7/10/90, Case TA-90-04, Ord. No. 026-90; 10/13/92, Case TA-92-02, Ord. No. 016-92; 8/16/02, Case TA-02-04, Ord. No. 014-2002)

22-1-4.1 **PUBLIC NOTICE AND HEARING.** No amendment of the regulations or the zoning map shall be considered by the Commission or the Council except after notice and hearing as per Section 23-7-1 of this Ordinance. For amendments to the zoning classification of land, written notice shall be provided per Section 23-7-2.1 and 23-7-2.2 of this Ordinance for both the Commission and City Council hearings. (10/13/92, Case TA-92-02, Ord. No. 016-92)

22-1-4.2 **NOTIFICATION SIGNS.** For any amendment of the official zoning map which affects less than either twenty-five (25) acres or twenty-five (25) land owners, the applicant shall place notification signage as per Section 23-7-3 of this Ordinance. (2/9/88, Case TA-87-13, Ord. No. 008-88; 2/13/90, TA-89-19, Ord. No. 004-90; 10/13/92, Case TA-92-02, Ord. No. 016-92)

SECTION 22-2. REFERRAL TO AND ACTION BY PLANNING COMMISSION.

22-2-1 All applications to amend or reenact the Zoning Ordinance, or to amend the Zoning Map, which have been determined by the Winchester Planning Department to be complete shall be considered to be referred to the Planning Commission by City Council. No amendment or reenactment shall be acted upon unless the proposal has been reviewed by the Commission. The Commission shall hold at least one (1) public

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hearing on such proposed amendment or reenactment after required notice. For any amendment of the Zoning Map, the public notice shall include the statement of the general usage and density range of the proposed amendment and the general usage and density range of the applicable part of the Comprehensive Plan. Following the hearing, the Commission may include changes in the original proposal resulting from the hearing, and shall transmit such recommendations, together with any explanatory matter, to the City Council. Failure of the Commission to report within one hundred (100) days after the first meeting of the Commission after the completed amendment application has been referred to the Commission shall be deemed approval, unless such proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period. (11/13/79, Ord. No. 024-19; 2/9/88, Case TA-87-13, Ord. No. 008-88; 12/11/90, Case TA-90-06, Ord. No. 043-90; 10/13/92, Case TA-92-02, Ord. No. 016-92; 12/10/13, Case TA-13-488, Ord. No. 2013-37)

22-2-2 In recommending the adoption of any rezoning of property, the Commission shall state by motion or resolution the public purposes therefor. (11/13/79, Ord. No. 024-79; 10/13/92, Case TA-92-02, Ord. No. 016-92)

SECTION 22-3. ACTION BY CITY COUNCIL.

Before acting upon the proposed amendment, the City Council shall hold at least one (1) public hearing. For any amendment of the Zoning Map, the public notice shall include the statement of the general usage and density range of the proposed amendment and the general usage and density range of the applicable part of the Comprehensive Plan. After such hearing the City Council may make appropriate changes or corrections in the proposed amendment; provided that no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public notice as per Section 23-7-1 and written notice as per Section 23-7-2 of this Ordinance. When approving any rezoning of property, City Council shall state by motion or resolution the public purposes therefor. (11/13/79, Ord. No. 024-79; 2/9/88, Case TA-87-13, Ord. No. 008-88; 12/11/91, Case TA-90-06, Ord. No. 043-90; 10/13/92, Case TA-92-02, Ord. No. 016-92)

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