

ARTICLE 12
AMENDMENTS

Section 12.1 Amendments to Text and Map

Zoning regulations and restrictions and district boundaries may from time to time be amended, supplemented, changed, modified or repealed in the following manner:

- a) The Planning Board or the Town Council of the Town of Mineral Springs or any person may institute an application for a change in the text or a change in the zoning map.

- 12.1.2** For a reclassification of property proposed by any person or entity other than the Town, an application for a rezoning of a particular piece(s) of property and change in the zoning map shall be made on a form provided by the Zoning Administrator. All expenses incurred by the Town for the processing of a rezoning application shall be paid by the applicant prior to the issuance of a final notification of action taken.

Each non-contiguous parcel of land for which rezoning is requested shall be considered as a separate application, and a fee (as established by the Town Council) shall accompany each such application. There shall be no fee for applications initiated by any Town of Mineral Springs governmental agency. For the purpose of this section, land traversed, and/or adjoining property shall be construed to mean and include property on the opposite side of any street, stream, railroad, road or highway from the property sought to be rezoned. In the event the owner of the property, sought to be rezoned owns additional property or properties adjoining the property in question said additional property shall also be construed to mean and be included in the property of the owner sought to be rezoned. Said additional property may or may not be included in the rezoning application, at applicant's discretion.

- 12.1.3** An application for a change in the text, by any person or entity other than the Town shall be made, on a form provided by the Zoning Administrator and the filing fee and the disposition of associated expenses shall be the same as stated in Section 12.1.2. The application shall contain a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as exact wording of the proposed change and the reasons therefore.

- 12.1.4** Once a completed application has been received by the Zoning Administrator, and the fees paid, he shall promptly review it, and if complete, he shall refer the application to the Planning Board for consideration at its next regularly scheduled meeting.

The Planning Board shall have thirty (30) calendar days from the date of referral by the Zoning Administrator to review the application and to submit its

recommendation to the Town Council. If a recommendation is not made during said time period, the application shall be forwarded to the Town Council without a recommendation.

A Planning Board member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

12.1.5 The Planning Board may make one of the following recommendations to the Town Council. If the petition is for rezoning and change in the zoning map, then the Planning Board may make one of the following recommendations:

- a) Grant the rezoning as requested, or
- b) Grant the rezoning with a reduction of the area requested, or
- c) Grant the rezoning to a more restricted district or districts, or (for the purposes of this Article the zoning districts of this Ordinance are listed in the following order from most restrictive to least restrictive: AR, RR, RA-40, R-20, RA-20, B-2, B-4, LI), or
- d) Deny the application.

Upon making a recommendation, the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

12.1.6 If the petition is to amend the text of this Ordinance, the Planning Board may make one of the following recommendations to the Town Council.

- a) Adopt the proposed amendment as written, or
- b) Adopt the amendment as revised by the Planning Board, or
- c) Reject the amendment.

The Zoning Administrator shall transmit any decision of the Planning Board to the Town Council.

12.1.7 Notification of the public hearing shall be made in the following manner:

- a) A notice shall be published in at least one (1) newspaper having general

circulation in the area once a week for two (2) successive weeks, the first notice to be published not less than ten (10) calendar days nor more than twenty-five (25) calendar days prior to the date established for the hearing. In computing such time the date of publication is not to be included but the date of the hearing shall be included.

- b) A notice shall be placed at a conspicuous public place within the corporate limits of the Town not less than ten (10) calendar days nor more than twenty-five (25) calendar days before the date established for the public hearing.
- c) A notice shall be posted in a conspicuous place on the subject property or on an adjacent street or highway right-of-way at least ten (10) calendar days prior to the public 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 parties.
- d) At least ten (10) calendar days prior to the public hearing, a notice of the proposed zoning change shall be sent by first class mail to all adjacent and abutting property owners. In the case of large-scale rezonings (more than fifty (50) properties owned by a total of at least fifty (50) different property owners), the Town may elect to publish notice of hearing per 12.1.7 (a), provided that each of the advertisements shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulations of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail.
- e) The Zoning Administrator shall certify that the requirements of subsections 12.1.7 (b), (c) and (d) have been met. The Town shall charge the petitioner a separate fee to cover costs incurred.

12.1.8 A written petition of protest may be filed with reference to any proposed change to the zoning map. In case of a protest against such change an amendment shall not become effective except by three-fourths (3/4) vote of the Town Council. For purposes of this subsection, vacant positions on the Council and members who are excused from voting shall not be considered 'members of council' for calculation of the requisite three-fourths vote. To qualify as a protest, the petition must be signed by the owners of either (I) twenty percent (20%) or more of the area included in the proposed change or (II) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot-buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the

100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine the 'owners' of potentially qualifying areas. A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth in this Ordinance at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement. This section shall not be applicable to any amendment which initially zones property added to the territorial coverage of this Ordinance as a result of annexation or otherwise.

- a) No protest against any proposed change shall be valid or effective unless it 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 and unless it shall have been received by the Town Clerk in sufficient time to allow the Town at least five (5) normal work days excluding Saturdays, Sundays and legal holidays before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. All protest petitions shall be on a form prescribed and furnished by the Zoning Administrator and such form may prescribe any reasonable information deemed necessary to permit the Zoning Administrator to determine the sufficiency and accuracy of the petition. No fees for processing any such petition shall be assessed by the Town.
- 12.1.9** After the public hearing has been conducted and officially closed, the Town Council shall render a decision concerning the proposal not later than the next regularly scheduled Town Council meeting. The decision shall be made in any one of the methods provided in Sections 12.1.5 or 12.1.6. A Town Council member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.
- 12.1.10** Prior to adopting or rejecting any zoning amendment, the Town Council shall adopt a statement describing whether its action is consistent with and adopted comprehensive plan and explaining why the Town Council considers the action taken to be reasonable and in the public interest.