

#### **11-3-4: AMENDMENTS:**

A. Authority To Petition; Fee: The city council, the planning and zoning board and other governmental bodies and any private petitioner may apply for an amendment to the text of this title and/or the accompanying zoning map made a part of this title. Any petition for an amendment by a private party shall be accompanied by a filing fee as established by the city council, which fee shall be deposited with the city clerk at the time of the filing of the petition, and no part shall be returnable to the petitioner. (1996 Code app. A § 15.1-1; amd. 2010 Code)

B. Contents Of Petition: The petition may be filed by the owner(s) or a prospective buyer(s), or their legal representative. The following will be required in the petition:

1. Complete name and address of all owners of the subject real estate, and if filed by a prospective buyer, the complete names and addresses of all prospective buyers.
2. Current zoning classification of subject real estate.
3. Intended zoning classifications sought by the petition.
4. Current use of subject real estate.
5. Intended use of subject real estate after amendment.
6. Approximate dimensions of the subject real estate.
7. Exact legal description of the subject real estate.
8. Street address of property.
9. A drawing of the property showing dimensions of the subject real estate, the boundary lines of adjoining properties labeled with the adjoining owners' names, the location of current improvements, if any, on the subject real estate, and showing the approximate location and dimensions of the improvement intended to be placed on the subject real estate in the event the amendment sought is approved. The drawing need not be exact or drawn to scale nor is it meant to require a certified survey.
10. If the improvement to be constructed is a new building or the exterior of an existing structure is to be changed, a picture, photograph, or drawing of the elevation of the proposed new improvement or similar structure.
11. Names and addresses of the owners of record of the real estate that adjoins or touches the subject real estate. For the purpose of determining whether a property adjoins or touches the subject real estate, alleys and streets are excluded. (1996 Code app. A § 15.1-2; amd. 2010 Code)

C. Letters Of Consent: Petitioner may obtain written letters of consent to the proposed amendment from adjoining or touching property owners and present same at the meeting where the petition is considered. (1996 Code app. A § 15.1-4; amd. 2010 Code)

D. Notice Of Amendment; Hearing:

1. The regulations imposed and the zoning districts created under this title may be amended by ordinance, but no such amendment shall be made by the city council without public notice and without a public hearing before the planning and zoning board of the city. The planning and zoning board shall hold the public hearing and forward its recommendations to the city council unless it is withdrawn by the petitioner. (1996 Code app. A § 15.2; amd. 2010 Code)

2. The petitioner is responsible to publish notice of the public hearing on the petition in the following manner:

a. By publishing notice of the time and place of such hearing in a newspaper of general circulation in the city at least fifteen (15) days prior to the date of the hearing.

b. Said notice by publication shall contain the legal description as well as common street address for which the amendment is requested, the current zoning classification, and the proposed amended zoning classification.

c. Petitioner or petitioner's agent shall contact all owners of adjoining or touching property and present them with copies of the petition, a written notice of the time, place and date of the meeting to consider the petition, and a copy of this section. Such contact can be made by mail or in person. All such contacts must be made at least fifteen (15) days prior to the hearing.

d. As used in this subsection D2, "days" is defined to mean calendar days.

e. Proof of publication and proof of notice to adjoining or touching property owners must be filed by affidavit of the petitioner or other legal representative, with the city clerk not less than seven (7) days prior to the date of the hearing.

f. Failure to abide by the notice dates provided herein will result in the petition not being heard at the intended meeting. (1996 Code app. A § 15.3; amd. 2010 Code)

E. Written Protest: In the event of written protest against the proposed amendment signed and acknowledged by the owners of twenty percent (20%) of the frontage proposed to be altered, or by the owners of twenty percent (20%) of the frontage immediately adjoining or across the alley or rear line therefrom, or by the owners of twenty percent (20%) of the frontage directly opposite the frontage proposed to be altered as to such regulations or zoning district, filed with the city clerk, such amendment shall not be passed except by the favorable vote of two-thirds ( $\frac{2}{3}$ ) of all of the members of the city council. However, all written protests or petitions of objection must be filed with the city clerk seven (7) days prior to the planning and zoning board meeting. In such cases, a copy of the written protest shall be served by the protestor or protestors on the applicant for the proposed amendments and a copy upon the applicant's attorney, if any, by certified mail, return receipt requested, at the address of such applicant and attorney shown in the application for the proposed amendment. Failure of any protestor or objector to file a written protest or objection in accordance with this subsection shall result in the protestor or objector not being heard at the hearing. (1996 Code app. A § 15.4; amd. 2010 Code)

F. Final Decision:

1. The city council, without further public hearing, may adopt or deny the report of the planning and zoning board for any proposed amendment, or may refer the petition back to the planning and zoning board for further consideration. (1996 Code app. A § 15.5)

2. Any proposed amendment which fails to receive the approval of a majority of the planning and zoning board members and is so reported, shall not be passed by the city council except by the favorable vote of two-thirds ( $\frac{2}{3}$ ) of all the elected members of the city council. (1996 Code app. A § 15.5; amd. 2010 Code)

3. a. The owner of any proposed property being altered cannot create a buffer zone by only proposing to alter a portion of his property. For purposes of this subsection F3, a "buffer zone" is defined as less than a total lot.

b. In the event that the portion to be altered is not platted, then any portion that is not sought to be altered will be considered a buffer zone if the portion sought not to be altered is not of sufficient size to meet the current minimum standards for zoning classification of the unaltered property.

c. In the event that a buffer zone is deemed to have been created, then those property owners who would be lawful protesters were it not for the creation of said buffer zone shall be considered for all intents and purposes as lawful protesters. All frontage is to be that frontage which is adjacent to or opposite land owned by a person seeking zoning alterations, whether or not said property is to be rezoned. (1996 Code app. A § 15.5)

G. Time Limit For Refiling Petition: Once the final decision has been made by the city council to reject a petition for amendment for rezoning, another petition for amendment to rezone the same property for the same use cannot be made for a period of six (6) months. (1996 Code app. A § 15.6)

H. Reversion Of Zoning Amendment: Any zoning amendment made pursuant to this title and not utilized by the petitioner within six (6) months from the date said amendment was granted by the city council will be terminated, and the zoning will revert to its original classification. However, an extension of time may be granted if a written request is made to the city council prior to the expiration of the six (6) month period. (1996 Code app. A § 15.7; amd. 2010 Code)

I. Annexed Land I :

1. Land that is annexed to the city is annexed as R-1 one-family dwelling subject to the provisions of this subsection I1. The city adopted a comprehensive plan for development for one and one-half ( $1\frac{1}{2}$ ) miles outside its city limits on February 15, 2008. Any land annexed within the one and one-half ( $1\frac{1}{2}$ ) mile area will be annexed with the zoning classification established by the plan, if any. Any person seeking annexation may request in their petition for annexation a zoning classification other than R-1.

2. If a zoning classification other than R-1 is desired for any part of the land, the petition to annex must contain all information contained in subsection B of this section as applicable, and the petitioners must notify adjoining or touching property owners of their intent to seek a zoning classification other than R-1 at least fifteen (15) days prior to the city council meeting at which the petition will be heard. An affidavit of the petitioners or their legal representative that notice was sent by certified mail or hand delivered to the adjoining or touching property owners must be filed with the city clerk at least seven (7) days prior to the city council meeting. (1996 Code app. A § 15.8; amd. 2010 Code)

3. The city council shall have original jurisdiction of the matter with the authority to establish the requested zoning classification for the annexed property without the matter being considered by the planning and zoning board. Should the city deny the requested classification, those seeking annexation may withdraw their petition for annexation or allow the real estate to be annexed at an R-1 classification. If the real estate is annexed with the R-1 classification, the annexing property owners have the right to request a zoning classification amendment in the manner and form as set out herein. (1996 Code app. A § 15.8)

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