

Article 13: Zoning Amendments

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Section 13.1 Power to Amend

Town Council may, from time to time, amend the number, shape, boundary or area of any zoning district, or may amend any regulation pertaining to any zoning district, or may amend any Article or Section of this Ordinance, in accordance with the procedure for amending the Zoning Ordinance in effect at the time.

Section 13.2 Initiation of Amendments

Proposed changes or amendments to the Zoning Ordinance or Official Zoning Map may be proposed by any of the following:

- (a) Town Council;
- (b) Planning Commission;
- (c) Any department or agency of the Town; or
- (d) Any individual, corporation, or agency owning, or having an interest in, property to be rezoned.

§ 13.2.2 Text Amendment Petitions

Petitions for a text change by any interested property owner or resident may be presented to Town Council for its initiation of the review process.

§ 13.2.3 Map Amendment Petitions

All petitions by any interested property owner or resident to change the applicable zoning of a property shall be initiated by submission of an application for Zoning Amendment to the Zoning Administrator.

Section 13.3 Requests for Zoning Map Amendments

An application for a change in land classification shall be presented on such forms as may be approved by the Town Council. The application shall identify the property as to size, location, ownership and proposed use(s). Such application shall be deemed as "complete" upon the Zoning Administrator's receipt of the following:

- (a) A plat approved in accordance with Article X of this Ordinance and recorded in the Charleston County ROD Office, and any prescribed fees, shall accompany the application.
- (b) A completed application form stating the:
 - (1) Name, address, and phone number of applicant;
 - (2) Name of property owner(s) and applicant's interest in the property if not the owner in fee simple title;
 - (3) Filing date of application;
 - (4) Existing and proposed zoning and existing use of tract proposed for rezoning;
 - (5) Zoning and land uses of adjacent properties;

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- (6) Any other information deemed relevant by the Zoning Administrator; and
- (7) Applicant's and property owner's signatures witnessed by the Planning Director or notarized.
- (c) A fee shall be paid for each application to cover administrative and advertising expenses associated with its processing as specified in the most recent fee schedule adopted by Town Council.
- (d) Upon submission of a zoning map amendment application, no additional rezoning application shall be accepted for the subject property until the application has either been withdrawn, or Town Council has rendered its decision in relation thereto.

Section 13.4 Review Process

§ 13.4.1 Planning Commission Study

Unless proposed by the Planning Commission, all proposed amendments shall be submitted to the Planning Commission for study and recommendation. The Planning Commission shall study such proposals to determine:

- (a) Whether the proposed rezoning is consistent with the adopted comprehensive plan and any applicable area plans;
- (b) Whether the proposed rezoning is consistent with the intent and purpose of the zoning ordinance and the district regulations being amended;
- (c) Whether there are any changed or changing conditions in the area affected that make approval of the request appropriate;
- (d) Whether the range of uses permitted in the zoning district being requested is compatible with uses permitted on property in the immediate vicinity;
- (e) Whether adequate utility, septic and water, transportation and other public services exist or can be provided to serve the uses that could be developed on the property if rezoned;
- (f) The effect of the proposed rezoning on the town's ground water supply;
- (g) The effect of the uses that would be permitted by the proposed rezoning on the structural capacity of soils;
- (h) The impact that uses permitted by the proposed rezoning would have on the volume of vehicular and pedestrian traffic and traffic safety and whether the proposed rezoning would implement sufficient measures to mitigate potential impacts of construction traffic on existing neighborhoods during development;
- (i) Whether a reasonably viable economic use of the subject property exists under current zoning;
- (j) Whether the proposed rezoning encourages compatible economic development activities in areas designated for such activity in the comprehensive plan;
- (k) The potential effect of the proposed rezoning on natural, scenic, archaeological or historic features of significance;

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- (l) The effect of the proposed rezoning on environmentally sensitive land or natural features, wildlife habitat, vegetation, and water and air quality;
- (m) Whether the proposed rezoning encourages conservation of properties and land values and the most appropriate use of land in the Town; and
- (n) Whether the proposed rezoning considers trends of growth or changes, employment or economic factors, the need for affordable housing, probable future economic and population growth of the Town.

§ 13.4.2 Commission Public Hearing and Notice

Before taking any action on any proposed amendment, the Planning Commission shall hold a public hearing. Such hearing shall be advertised as to date, place and time at least fifteen (15) days prior to the scheduled date of the hearing in a newspaper of general circulation within the Town.

- (a) At the public hearing, any interested party may be heard, either orally or in writing. Ten (10) days' notice of this opportunity shall be given to the applicant, all property owners of parcels within 200 feet of the subject property, and any other parties who have expressed an interest in being notified.
- (b) In cases involving a property rezoning, conspicuous notice shall be placed on or adjacent to the property affected with at least one (1) such notice being visible from each public thoroughfare that abuts the property.

§ 13.4.3 Commission Report to Town Council

The Planning Commission shall submit its report to Town Council, together with its recommendation of the action which should be taken, on the proposal within thirty (30) days of its initial consideration of the issue. Failure to submit a report or recommendation within such time shall be deemed a recommendation of approval for the change.

- (a) Notwithstanding the thirty (30) day time period above, if there are outstanding issues for the applicant to resolve prior to a recommendation being made by the Planning Commission, the applicant may request, in writing, for the Commission to defer making its recommendation. A mutual agreement to defer the Commission's recommendation shall extend the time period indefinitely unless the applicant's request establishes a date certain.
- (b) The Planning Commission's report shall include a summary of any significant issues or concerns noted or presented at the public hearing and any resolutions reached prior to taking action. The Commission's recommendation may be accompanied by suggested conditions for approval of the requested rezoning or suggested revisions to the proposed text amendment.
- (c) The recommendation of the Planning Commission shall be advisory.

§ 13.4.4 §13.4.4 Town Council Consideration and Public Notice

Upon receipt of a recommendation from the Planning Commission, Town Council shall act upon the application. No amendment to this Ordinance or map shall be considered by Town Council until a public hearing that has been advertised and conducted according to procedures prescribed in this Section is held.

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- (a) In the event that Town Council has authorized the Planning Commission to hold a public hearing on a proposed amendment, Council may elect to consider the amendment proposal without holding a second public hearing.
 - (1) Any public hearing on a proposed zoning amendment scheduled before Town Council shall again be duly noticed, as to time, place, and date, and at least fifteen (15) days prior to the scheduled date of the hearing in a newspaper of general circulation within the Town. Interested parties and owners of property within 200 feet of the subject property shall be given written notice of the opportunity to be heard on the proposed rezoning.
 - (2) In cases of rezoning, conspicuous notice shall be posted on or adjacent to the property affected, with at least one (1) such notice being visible from each public thoroughfare that abuts the property.
- (b) In accord with SC Code §6-29-760, no change in or departure from the text or maps as recommended by the Planning Commission may be made pursuant to the hearing unless the change or departure be first submitted to the Planning Commission for review and further recommendations.

§ 13.4.5 Town Council Action

Town Council may approve or disapprove any and all applications or requests for change in zoning.

- (a) Whenever the recommendation of the Planning Commission is for disapproval of a requested zoning change, a three/fourths (3/4) vote of Town Council members present and voting shall be required to grant approval of the zoning change.

Section 13.5 Effective Date

- (a) Any ordinance adopted affecting a change in the text of the McClellanville Zoning Ordinance shall become effective the day following the Council meeting at which action has been taken.
- (b) Any ordinance adopted affecting a change to the Official Zoning Map shall become effective at such time that the map is changed in accord with §2.2.3.