

**ARTICLE 19
ZONING MAP (REZONING) AND TEXT AMENDMENTS**

Statement of Intent

Whenever the public necessity, convenience, general welfare, or good zoning practices require, and subject to the requirements of the Code of Virginia (1950) as amended, Section 15.2-2285, the regulations, restrictions, and district boundaries established by this Ordinance may be amended, supplemented or repealed by ordinance adopted by the Town Council.

DIVISION ONE - ZONING MAP AMENDMENTS

Division One outlines the requirements and procedures for amendments to the zoning map of the Town of Colonial Beach.

Unit One - General Regulations

19-1 Initiation

- A. Zoning map amendments may be initiated by resolution of the Town Council, by motion of the Planning Commission, or by application of the property owner or the contract purchaser with the owner's written consent.

19-2 Application Process

- A. Amendments initiated by the Planning Commission or Town Council.
1. Any resolution or motion by the Planning Commission or Town Council shall state the public purpose for the zoning map amendment prescribed in this division. Upon adoption of any such resolution or motion for a zoning map amendment, such amendment shall be prepared and a public hearing scheduled to consider the amendment in accordance with the requirements of this Article.
- B. Amendments initiated by the property owner.
1. Pre-application conference.
Before filing the application, the applicant shall meet with the Planning Director to discuss the proposed amendment and to become more familiar with the applicable requirements and approval procedures of the Town.
 2. Application Form
 - a. An application for a zoning map amendment shall be filed with the Planning Director on a form provided by the Planning Director
 - b. For any application filed by an agent, contract purchaser, or lessee of the property, a written statement signed by each title owner indicating his endorsement of the application.
 - c. Nothing herein shall be construed as prohibiting a single application for a zoning map amendment from encompassing multiple parcels of property under differing ownership, provided such are contiguous or separated solely by a public right of way or easement, and all owners of such parcels consent, or join in such application.

19-3 Submission Requirements - Certified Plat

- A. An application for a zoning map amendment shall be accompanied by twenty-one (21) copies of a certified plat of the subject property showing all of the following information.
1. The metes and bounds of all boundary lines of the subject property, and the bearings and distances of each zoning district crossing, or abutting the property.
 2. The total area of the property, presented in either square feet or acres.
 3. A scale and north arrow.
 4. The location of all existing buildings, structures, and easements of record.
 5. The names and route numbers of all boundary roads or streets and the width of existing rights-of-ways.
 6. The signature and seal of the person preparing the plat.
 7. The legal description of the property to be rezoned.

19-4 Submission Requirements - General Development Plan

- A. An application for a zoning map amendment initiated by the property owner shall contain twenty-one (21) copies of a generalized development plan. Such plan shall be prepared by a licensed architect, engineer, or surveyor and shall include the following information. The Planning Director shall have the authority to waive or modify in writing any of these requirements.
1. A title block denoting the type of application, name of project, tax map reference and street address.
 2. The name, address and phone number of the applicant.
 3. The name, address, phone number, signature, seal and registration number of the plan preparer, and the preparation date of the plan.
 4. The distance to and identification of the nearest street intersection.
 5. The boundary of the entire parcel with courses and distances, with existing or proposed parcel lines, easements or rights-of-way within the subject property.
 6. The present zoning, principal use, and boundaries of any overlay zoning districts of the subject parcel and all contiguous properties.
 7. A table (with computations) estimating the lot coverage ratio and impervious surface ratio, the types of proposed uses, the number of residential dwelling units and densities, and the gross and net floor area of nonresidential structures.
 8. The general locations, approximate dimensions, height, and setbacks of all existing and proposed buildings, structures, accessory structures (including outdoor lighting, fences, walls or hedges, trash receptacles), signs, landscaping and buffers, storm water management facilities and other improvements.
 9. The boundaries of any water bodies, floodplain, resource protection area, watershed, and wetlands.
 10. A generalized landscaping plan in accordance with Article 24 of this Ordinance.
 11. The general location and dimensions of existing and proposed parking and loading areas and any other impervious surfaces such as driveways, streets (and names), cement sidewalks and playing surfaces and location and description of all points of access.
 12. The estimated daily vehicular trips generated by the proposed development on each road segment shown on the plan.
 13. The location and dimensions of on-site pedestrian walkways or bicycle paths and any connection to adjacent property.
 14. Typical roadway pavement and design section for all proposed streets, roads, and driveways.
 15. Points of connection to public water and sewer.

16. Topographic contour lines at two foot intervals, for the existing site and after the completion of the proposed development.
17. The size, location and boundaries of any common open spaces, recreation areas, and recreation facilities, including a statement of whether such open areas are to be dedicated to the public, and the percentage of common area to be green space.
18. For large scale phased developments, identification of the location and timing of each phase of development.
19. Description of the methods proposed to control erosion, sedimentation, and storm water runoff.
20. A listing of the persons to be responsible for future maintenance of all easements, parks, playgrounds, storm water and drainage facilities and common areas.
21. Identification of the Resource Protection Area (RPA) if applicable and a note stating that all lands in the Town of Colonial Beach that are not RPA are considered a Resource Management Area (RMA).

19-5 Submission Requirements - Statement of Purpose and Justification

- A. An application for a zoning map amendment initiated by the property owner shall be accompanied by a statement of purpose and justification which must include the following information:
 1. A statement explaining the relationship of the proposed zoning map amendment to the Town=s adopted Comprehensive Plan.
 2. A public facilities assessment presenting the potential impact the proposed rezoning could have, at the maximum density of development allowed in the proposed zoning district, on the following public facilities:
 - a. Water treatment storage and transmission facilities.
 - b. Sewage transmission and treatment facilities.
 - c. Streets and other public transportation systems.
 - d. Storm sewerage, including storm water management facilities, both on-site and off-site.
 - e. Public schools, libraries, and other educational institutions.
 - f. Public parks and recreational facilities.

19-6 Submission Requirements - Statement of Intent

- A. An application for a zoning map amendment initiated by the property owner shall be accompanied by a statement of intent which must include the following information:
 1. A statement indicating whether the applicant intends to submit proffers.
 2. Any additional information or conditions that the applicant may desire to proffer in accordance with the provisions of this Article.

19-7 Determination of Completeness

- A. Within ten (10) working days after receiving an application for a zoning map amendment, the Planning Director shall determine whether the application is complete and all submission requirements satisfied. If the Planning Director determines that the application is not complete, the Planning Director shall notify the applicant of any deficiencies within five (5) working days after such determination. If the application is not made complete within fifteen (15) working days of such notice, the Planning Director shall begin the process of dismissal

in accordance with Section 19-8 of this Article. No further steps to process the application shall be taken until the applicant remedies the deficiencies.

19-8 Dismissal of incomplete or lapsed applications

- A. If an applicant refuses or neglects to pursue an application or fails to submit information required by this Article, the Planning Director may, not less than fifteen (15) working days after notice of intention to do so, declare an application dismissed. Notice sent by certified mail, return receipt requested, to the applicant at the last known address shall be deemed adequate compliance with this requirement. If an application is dismissed there shall be no refund of the required fee.

19-9 Withdrawal of application

- A. An application for a zoning map amendment may be withdrawn upon the submission of a signed written request by the applicant to the Planning Director. Such request must be received at least twenty four (24) hours prior to final action by the Town Council. Upon such withdrawal, processing of the application shall cease. If the applicant withdraws an application for a zoning map amendment, there shall be no refund of the required fee.

19-10 Notice of Zoning Map Amendments - Advertising

- A. Notice of any proposed zoning map amendment shall be advertised for two successive weeks in a newspaper having general circulation within the Town of Colonial Beach. Every such advertisement shall contain a descriptive summary of the proposed action and a reference to the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined. The notice shall specify the date, time, and place of public hearing at which persons affected may appear and present their views, such public hearing shall not be held less than six days nor more than twenty one days after the second advertisement appears in such newspaper. Additionally, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan.

19-11 Notice of Zoning Map Amendments - Written Notice

- A. The applicant for any proposed zoning map amendment shall be responsible for giving, at least five days prior to each public hearing, written notice specifying the date, time and place of public hearing at which persons affected may appear and present their views, to the owner(s), their agent or the occupant of each parcel involved and to all abutting property and property located immediately across the street or road from the affected property. Such notice shall contain a descriptive summary of the proposed action and a reference to the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined. Such notice shall be by either registered or certified mail and sent to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records. If the proposed zoning map amendment involves any parcel of land located within one half mile of a boundary of an adjoining locality of the Commonwealth, written notice shall also be given at least ten days before the hearing to the chief administrative officer, or his designee, of such adjoining locality. A certification of notice and a listing of the persons to whom notice has been sent shall be supplied by the applicant to the Planning Director at least five days prior to the first

hearing. Failure to submit such certification of notice shall result in the cancellation of the scheduled public hearing.

- B. Whenever the notices required hereby are sent by an agent, department, or division of the local governing body, or their representative, such notices may be sent by first class mail; however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

19-12 Notice of Zoning Map Amendments - Posting of Property

- A. The Planning Director shall post, at least fifteen (15) days prior to the date of each public hearing, for each street frontage, at least one notice of the scheduled public hearing, on the land or building involved in any zoning map amendment application filed pursuant to this Article.

19-13 Notice of Zoning Map Amendments - Additional Public Hearings

- A. If any additional public hearing is held, then notice of such hearing shall be given in accordance with this Article.

19-14 Approval Process - Staff Review and Report

- A. Upon receipt of an application for a zoning map amendment, the Planning Director may transmit the application and other applicable information to any governmental agency for review and comment as appropriate.
- B. After agency comments have been received, and an application for a zoning map amendment is determined to be complete, the Planning Director shall schedule the application for a public hearing before the Planning Commission and shall review the application for compliance with the requirements of this Article. The Planning Director shall submit a written staff report to the Planning Commission on the proposed map amendment. Such report shall include a list of any waivers granted from Section 19-4 of this Article.

19-15 Approval Process - Public Hearing and Recommendation by the Planning Commission

- A. No ordinance to amend the zoning map of the Town of Colonial Beach shall be acted upon, or approved by the Town Council unless the proposed amendment has been referred to the Planning Commission for its recommendation.
- B. The Planning Commission shall conduct a public hearing, and shall submit a written report and recommendation on the proposed zoning map amendment to the Town Council.
- C. Once a zoning map amendment has been referred to the Planning Commission, the Planning Commission shall report to the Town Council no later than ninety (90) days subsequent to such referral, provided, however a shorter time period may be prescribed by Town Council. Such time period shall commence on the date of the meeting at which the Planning Commission first considers the amendment. Failure of the Planning Commission to report within the required time frame shall be deemed approval of the proposed amendment, unless such has been withdrawn by the applicant prior to the expiration of the time period. Such recommendation by the Planning Commission to the Town Council shall state the public purpose for either approval or denial of the requested amendment.

19-16 Approval Process - Action by Town Council

- A. Upon receipt of the report and recommendation by the Planning Commission, the Town Council shall conduct a public hearing.
- B. After conducting the public hearing, the Town Council shall make a decision on the proposed zoning map amendment within a reasonable time not to exceed twelve (12) months from the date that the application is determined to be complete, unless the proposed zoning map amendment has been withdrawn by the applicant prior to the expiration of the time period, or the applicant requests or consents to action beyond such period.
- C. In determining whether to adopt a zoning map amendment, the Town Council shall approve only those amendments:
 - 1. Required by public necessity, convenience, general welfare, or good zoning practices, and
 - 2. That are in conformance with the Town's adopted Comprehensive Plan, as amended, and
 - 3. Where one (1) or more of the following conditions exist:
 - a. Adequate public facilities are already available to serve the property, or
 - b. The Town has agreed to provide adequate public facilities to serve the property, or
 - c. The applicant has voluntarily proffered to provide adequate facilities in accordance with this Article.
- D. Following the public hearing, the Town Council may:
 - 1. Approve the zoning map amendment, with or without proffers, or
 - 2. Deny the zoning map amendment, or
 - 3. Refer the application back to the Planning Commission for further study and review, or
 - 4. Make appropriate changes in the proposed amendment; provided, however, that no land may be rezoned to a more intensive use classification than those contained in the public notice without a new notice and public hearing.

19-17 Additional Application

- A. Where an application for a zoning map amendment is disapproved by the Town Council, the Town Council may not consider substantially the same application for a period of one (1) year following the date of the denial of the application by the Town Council.

19-18 - 19-20 Reserved

Unit Two - Conditional Zoning

- A. Unit Two of this Division outlines the procedures for conditional zoning. Such requirements are in addition to those set forth in Unit One of this Article.

19-21 Conditional Zoning, Proffers.

- A. The Town Council may approve zoning map amendments subject to reasonable conditions governing the use of the property being rezoned, such conditions being in addition to, or modification of, the regulations provided for a particular zoning district or zone by this Article.

- B. A conditional zoning shall only be approved by the Town Council if the owner of the property which is the subject of the proposed rezoning has voluntarily proffered such conditions in writing.

19-22 Conditional Zoning Approval Process - Staff Review and Report

- A. In addition to the requirements set forth in Section 19-14 of this Article, the Planning Director shall submit a written report to the Planning Commission on the proffered conditions submitted by the applicant. Such report shall include an analysis of the proffered conditions as they relate to Town ordinances, standards and requirements, and a recommendation whether or not the proffers are adequate to protect the health, safety and general welfare of the public. In addition, the Town Attorney shall provide a report to the Planning Commission on the legal adequacy of the proffered conditions.

19-23 Conditional Zoning - Public Hearing and Recommendation by the Planning Commission

- A. In addition to the requirements set forth in Section 19-15 of this Article, an application for a zoning map amendment which is accompanied by a statement of intent to submit proffers shall not be placed on the Planning Commission agenda until proffers are submitted in writing to the office of the Planning Director.

19-24 Conditional Zoning Approval Process - Action by Town Council

- A. In addition to the requirements set forth in Section 19-16 of this Article, the Town Council may approve a conditional rezoning and such proffered conditions provided that:
 1. The rezoning itself must give rise to the need for the conditions, and
 2. Such conditions shall have a reasonable relation to the rezoning, and
 3. Such conditions shall not include a cash contribution to the Town, and
 4. Such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in Section 15.2-2243 of the Code of Virginia (1950) as amended, and
 5. Such conditions shall not include payment for, or construction of, off-site improvements except those provided for in Section 15.2-2303.2 of the Code of Virginia (1950) as amended, and
 6. No conditions shall be proffered that are not related to the physical development or physical operation of the property, and
 7. All such conditions shall be in conformity with the duly adopted Comprehensive Plan if applicable.

19-25 Conditional Zoning - Public Hearing Requirements

- A. In addition to the advertising, notice, and public hearing requirements set forth in Unit One of this Article, once proffered conditions in the rezoning application are acted upon by the Planning Commission, a public hearing shall be held before the Town Council as required by law. No substantive change or modification to any proffered condition shall be made nor any additional conditions added to the application at that public hearing or during Town Council consideration. . If substantive modifications or additional conditions are proposed, such shall be referred to the Planning Commission for further consideration in accordance with this Article.

19-26 Conditional Zoning - Continuation of Conditions

- A. Once proffered and accepted by the Town Council as part of a zoning map amendment, such conditions shall continue in full force and effect until a subsequent amendment changes the zoning classification on the property covered by such conditions, or amends the conditions themselves.

19-27 Conditional Zoning - Recordation

- A. Within thirty (30) days after Town Council approval of proffered conditions as part of an amendment to the zoning map, the applicant shall cause a notice of conditional zoning to be recorded among the land records of the Circuit Court of Westmoreland County, in a form approved by the Town Attorney, indicating that such proffered conditions shall run with the rezoned property and shall remain in effect until the Town Council amends the zoning classification on the property or otherwise modifies the conditions.

19-28 Conditional Zoning - Indexing of Zoning Map

- A. The zoning map shall show, by an appropriate symbol on the map, the existence of proffered conditions which were attached to the zoning district when the map was amended. The Town shall keep, and make available for public inspection, a proffered conditions index.

19-29 Conditional Zoning - Administration and Enforcement

- A. The Planning Director shall be vested with all necessary authority, on behalf of the Town Council, to administer and enforce proffered conditions, including,
 - 1. Ordering in writing compliance with such proffered conditions,
 - 2. Bringing of legal action to insure compliance,
 - 3. Requiring a guarantee or contract, or both, for construction of physical improvements required by proffered conditions.
 - 4. Denial of the issuance of any required site plan approval, building, or occupancy permits.
 - 5. The building official shall not issue any occupancy permit for property which is the subject of proffered conditions until the Planning Director has certified in writing that the applicant has complied with all proffered conditions as of the date of issuance.
 - 6. Upon approval of proffered conditions by the Town Council, any site plan, subdivision plat or generalized development plan thereafter submitted for the development of the property shall be in conformance with all proffered conditions and no development shall be approved by any town official in the absence of such conformance. In determining whether a proposed change conforms with all proffered conditions, the Planning Director shall consult with the Planning Commission prior to rendering a decision

19-30 Conditional Zoning - Amendments and variations of proffered conditions

- A. Once the Town Council has approved proffered conditions pursuant to this Article, no amendment or variation of such conditions may be made unless enacted in accordance with this Article.

19-31 Conditional Zoning - Appeal

- A. Any person aggrieved by a decision of the Planning Director regarding any proffered condition may appeal such decision to the Board of Zoning Appeals. Such appeal shall be filed within thirty (30) days from the date of the decision by filing a notice of appeal with the Planning Director. Such notice shall contain a statement specifying the grounds on which aggrieved and the basis for the appeal.

19-32-19-35 Reserved

DIVISION TWO - TEXT AMENDMENTS

Division Two outlines the requirements for review and approval of proposed text amendments to the Zoning Ordinance. Amendments to the zoning map are governed by Division One of this Article.

19-36 Initiation

- A. Amendments to the text of the Zoning Ordinance may be initiated by motion of the Planning Commission or resolution of the Town Council. Such resolution or motion by the Planning Commission or Town Council shall state the public purpose for the proposed text amendment.

19-37 Notice of Text Amendments - Advertising

- A. Notice of any proposed text amendment shall be advertised for two successive weeks in a newspaper having general circulation within the Town of Colonial Beach. Every such advertisement shall contain a descriptive summary of the proposed action and a reference to the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined. The notice shall specify the date, time, and place of hearing at which persons affected may appear and present their views, such hearing shall not be held less than six days nor more than twenty one days after the second advertisement appears in such newspaper.
- B. If the proposed text amendment imposes or increases a fee pursuant to the provisions of Section 15.2 2200 et seq. of the Code of Virginia (1950) as amended, such amendment shall not be adopted unless fourteen (14) days have elapsed following the last required publication and in addition to the requirements of subsection (a) above, the notice shall contain the following:
 1. The actual dollar amount or percentage change, if any, of the proposed fee or increase, and
 2. A specific reference to the Code of Virginia section or other legal authority granting the legal authority for enactment of such proposed fee or increase.

19-38 Approval Process - Staff Review and Report

- A. Upon adoption of a motion of the Planning Commission, or resolution by the Town Council to amend the text of the Zoning Ordinance, the text amendment shall be prepared and scheduled for consideration at a public hearing before the Planning Commission.
- B. The Planning Director may transmit the proposed amendment and other relevant information to any governmental agency for review and comment as appropriate.

- C. The Planning Director shall prepare and submit a report to the Planning Commission on the proposed text amendment.

19-39 Public Hearing and Recommendation by Planning Commission

- A. No ordinance to amend the text of the Zoning Ordinance of the Town of Colonial Beach shall be acted upon, or approved by the Town Council unless the proposed amendment has been referred to the Planning Commission for its recommendation.
- B. After giving notice in accordance with Division Two of this Article, the Planning Commission shall conduct a public hearing on the proposed amendment and shall submit a written report and recommendation on the proposed text amendment to the Town Council.
- C. Such report and recommendation shall be submitted by the Planning Commission to the Town Council no later than sixty (60) days subsequent to such referral, provided, however a shorter time period may be prescribed by Town Council. Such time period shall commence on the date of the meeting at which the Planning Commission first considers the amendment.

19-40 Action by Town Council

- A. Upon receipt of the report and recommendation of the Planning Commission, the Town Council shall conduct a public hearing after giving notice as provided for in Division Two of this Article.
- B. After conducting the duly advertised public hearing, the Town Council may:
 - 1. Approve the text amendment, or
 - 2. Modify the text amendment, or
 - 3. Deny the text amendment, or
 - 4. Refer the application back to the Planning Commission for further study and review.
- C. Any ordinance adopted by Town Council approving a text amendment to the Zoning Ordinance must state the public purpose for such amendment.