

***20.1 INTENT AND AUTHORITY***

The purpose of this Chapter is to set forth procedures for amending the text of these regulations and the zoning classification of land as shown on the Zoning Map. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments necessary in light of changed conditions or changes in public policy. Procedures for making amendments to the Land Development Code or Zoning Map are also set forth. When reviewing any petition to amend the Land Development Code or Zoning Map, the City staff, Planning and Zoning Board, and City Council shall consider whether the requested amendment is consistent with the goals, objectives, and principles of the City of Belmont Comprehensive Land Use Plan.

***20.2 CHANGES AND AMENDMENTS TO THE LAND DEVELOPMENT CODE & ZONING MAP*****1. Amendments Initiated by the City of Belmont**

The City Council may from time to time, on its own motion or on the recommendation of the Planning Board, amend, supplement, change, modify, or repeal the boundaries or regulations herein or subsequently established. In addition, the City Council may take such action on the petition of a private citizen in accordance with the following procedures.

**2. Amendments by Petition**

The petition, including a precise description of the proposed change, shall be submitted to the Planning Director not later than three weeks prior to the meeting of the City Council at which the petition is to be heard. When the petition concerns a specific piece of property, the owner(s) or designee(s) must sign the petition. When considering a petition for the re-classification of property to any district neither the Planning Board nor the City Council shall evaluate the petition based on any specific proposal for the use or development of the affected property and the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development except for those which would apply to any use permitted in the requested district, provided, however, such information may be presented and considered when on an application for a Conditional District (CD).

**3. Content of Application**

- A. Each noncontiguous parcel of land for which rezoning is requested shall be deemed as a separate application, and said application fee shall accompany each application. For the purpose of this paragraph, land located and adjacent on either side to the rear and all property directly across any street or public right-of-way from the subject property shall be deemed to be contiguous.
- B. Each application for a rezoning of land shall be accompanied by a map, drawn to scale, with the following information either shown on the map or accompanying it:
  1. The subject property plus such additional property as to show the location of the subject property with reference to the nearest street intersection, railroad, stream or other feature easily identifiable on the ground. In

addition, all property lines which abut the property, and property owners' names and addresses of all contiguous properties shall be furnished.

2. If the property is in a subdivision of record, a map of such portion of the subdivision that would relate the subject property to the closest street intersection, and in addition, the name of the subdivision and the plat addition and the names and addresses of all adjoining property owners (as indicated on the most up-to-date tax listings) shall be furnished.
  3. A written metes and bounds description and a boundary survey of the property(ies) proposed for rezoning shall accompany the map.
  4. The present and proposed zoning classification of the lot(s) in question.
  5. The property identification number(s) of the lot(s) in question as issued by the Gaston County Tax Department.
- C. An application for the rezoning of land to a Conditional District (CD) shall be submitted in accordance with **Section 17.8 Schematic Design Requirements**.
- D. An application for a change in the text of the Code shall be made in duplicate, on an application form provided by the Planning Department. The application shall contain a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change, and the reasons therefore.

#### 4. Planning Board Review and Recommendation

Once the petition is complete, the Planning Director shall refer the petition to the Planning Board for review and recommendation to the City Council. The Planning Board shall have a maximum of forty (40) days from the date they first meet to make such recommendation. If a recommendation is not made during said time period, the application shall be forwarded to the City Council without a recommendation from the Planning Board. The Planning Board, at their discretion, may receive public input at their meeting, but are not required to conduct a public hearing in accordance with 20.2.5 and 20.2.6 below.

- A. If a recommendation is made to the City Council by the Planning Board concerning a petition for rezoning, said recommendation shall be as follows:
1. Grant the rezoning as requested, or
  2. Grant the rezoning with a reduction of the area requested, or
  3. Grant the rezoning to a more restrictive general zoning district or districts, or
  4. Grant the rezoning with a combination of 1 and 2 above, or
  5. In the case of a Conditional District rezoning petition, grant the rezoning subject to approved conditions enumerated on the accompanying Schematic Design, or
  6. Recommend that the application be denied.
- B. If a recommendation is made to the City Council by the Planning Board concerning a petition to amend the text of this Code, it shall be as follows:

1. Adoption of the amendment as written, or
2. Adoption of the amendment as revised by the Planning Board, or
3. Rejection of the amendment.

#### **5. Public Hearing and Notification**

In order for an amendment to the Land Development Code or Zoning Map to be made in accordance with this Section, a public hearing must first be held by the City Council. Notification of the public hearing shall be as follows:

- A. A notice shall be published in a newspaper having general circulation in the town once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.
- B. A notice of a proposed Zoning Map shall be sent by first class mail by the Planning Director to the affected property and to all contiguous property owners.

The first class mail notice required under 20.2.5 (B) of this section shall not be required when the zoning reclassification action directly affects more than 50 properties, owned by a total of at least 50 different property owners.

In any case where this section eliminates the notice required by subsection 20.2.5 (B) of this section the City shall publish once a week for four successive calendar weeks in a newspaper having general circulation in the area with a map showing the boundaries of the area affected by the proposed ordinance or amendment. The map shall not be less than one-half of a newspaper page in size. The notice shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the City's jurisdiction or 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 mail pursuant to this section. The person or persons mailing the notices shall certify to the City Council that fact, and the certificates shall be deemed conclusive in the absence of fraud. In addition to the published notice, a city shall post one or more prominent signs on or immediately adjacent to the subject property area reasonably calculated to give public notice of the proposed rezoning.

#### **5. City Council Review and Approval (or Denial)**

In case of protest against an amendment, duly signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change or of those immediately adjacent thereto, either in the rear thereof or on either side thereof, extending one hundred (100) feet there from or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendment shall not become effective except by a favorable vote of three-fourths (3/4) of all the members of the City Council.

No protest against any proposed amendment shall be valid or effective unless it is 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 Planning Director in sufficient time to allow the City at least two (2) normal business days before the date

established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.

Once the public hearing has been conducted the City Council shall render a decision on the petition. The decision of the City Council shall be in the form of any of the various options listed in Sections 20.2.4 (A) and (B). Alternatively, the City Council may send the application back to the Planning Board for further study and consideration. The petitioner shall have the right to withdraw his petition at any time prior to the final decision being rendered by the City Council. The City Council shall have the authority to call for additional public hearings on any amended petition brought before them.

#### ***20.4 REHEARING***

An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of fifteen (15) days after the date of the City Council decision. In addition, specific information to enable the City Council to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. A rehearing shall be denied by the City Council, if, in its judgment, such change in facts, evidence or conditions have not been proven. A public hearing shall not be required to be held by the City Council to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least four (4) voting members. In the event that the City Council finds that a rehearing is warranted, it shall thereupon proceed as in the original hearing except that the application fee shall be waived.

Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the original application.

Every decision of the City Council shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within thirty (30) days after the decision of the Board is filed in the office of the Planning Director, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Planning Director at the time of the Council's hearing of the case, whichever is later.