

ARTICLE 4. AMENDMENTS

Section 4-1: Amending this Ordinance

The City Board of Aldermen may amend this Ordinance and zoning map according to the following procedures.

- (A) General. Zoning regulations and restrictions and zone boundaries may from time to time be amended, supplemented, changed, modified or repealed. Proposed amendments may be initiated by the City Board of Aldermen, Planning Board, Board of Adjustment, members of the public, or by one or more interested parties. No amendment shall be adopted by the Board of Aldermen until after due public notice and public hearing as prescribed herein.
- (B) Application. A complete application for any amendment shall contain a description of the proposed zoning regulation or zoning map amendment. The application shall state in detail whether the proposed amendment is consistent with the City Comprehensive Plan, CAMA Core Land Use Plan, and any other officially adopted plan that is applicable. The application shall also give detailed evidence that the proposed amendment is in the interest and will benefit the general public and not solely be of benefit to the applicant; that the uses within the proposed zoning district are similar or comparable to the uses in the district as currently zoned, or that none of the uses permitted in the proposed zoning district may potentially adversely affect property values or the health, safety, morals, or general welfare of the residents of the surrounding area. Such application shall be filed with the Administrator to be processed in accord with Section 12-5. (Revised 4/13/06)
- (C) Fees. Based on the City of Southport Schedule of Fees, a fee shall be paid to the City for each application for an amendment to cover the costs of advertising and other administrative expenses involved.
- (D) Protest Petitions. No protest against any change in or amendment to a zoning ordinance or zoning map shall be valid or effective for the purposes of G.S. 160A-385 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 City Clerk in sufficient time to allow the City at least two (2) 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. The Board of Aldermen may by ordinance require that all protest petitions be on a form prescribed and furnished by the City, and such form may prescribe any

reasonable information deemed necessary to permit the City to determine the sufficiency and accuracy of the petition. 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 G.S. 160A-385 at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement contained herein.

To qualify as a protest under this section, 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 rezoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence to evidence to the contrary, the City may rely on the county tax listing to determine the "owners" of potentially qualifying areas.

In the case of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the Board of Aldermen. For purposes of this subsection, vacant positions on the Board and members who are excused from voting shall not be considered "members of the Board" for calculation of the requisite supermajority.

The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the Ordinance as a result of annexation or otherwise, or to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use district, conditional use district, or conditional district.

- (E) Notice and Public Hearing. In the case of a zoning map amendment, the owner of the parcel of land subject to the map amendment as shown on the Brunswick County tax listing, and the owners of all parcels of land abutting said parcel of land as shown on the County tax listing, shall be mailed a notice of public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the County tax listing. This notice shall be deposited in the mail at least ten (10), but no more than twenty-five (25) days prior to the date of the public hearing.

The person or persons mailing such notices shall certify to the Board of Aldermen that fact, and such certificate shall be deemed conclusive in the absence of fraud.

- (F) Alternative Notice - Large Rezonings. The first class mail notice required under subsection (E) hereof shall not be required if the zoning map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners, and the City elects to use the expanded public notice provided for in this subsection. In this instance, the City may elect to either make the mailed notice provided for in subsection (E) hereof, or as an alternative, elect to publish once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area an advertisement of the public hearing that shows the boundaries of the area affected by the proposed zoning map amendment and explains the nature of the proposed change. The advertisements shall comply with and be deemed to satisfy the provisions of G.S. 160A-364. 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 newspaper circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the addresses listed on the most recent property tax listing for the affected property, shall be notified by first class mail pursuant to this section. The person or persons mailing the notices shall certify to the Board of Aldermen that fact, and the certificates shall be deemed conclusive in the absence of fraud.
- (G) Posted Notice. In addition to the published notice, the City shall post one (1) or more prominent signs on the site proposed for the rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the City shall post sufficient notices to provide reasonable notice to interested persons.

Section 4-2: Action by the Planning Board

- (A) Referral. Upon receipt of a complete application for a proposed amendment, the Administrator shall refer the matter to the Planning Board for consideration at its next regularly scheduled meeting. The Planning

Board shall review each proposed amendment and prepare a written recommendation to the Board of Aldermen. Said recommendation shall be transmitted to the Board of Aldermen within thirty (30) days from the date of the referral.

- (B) Planning Board Statement. The Planning Board shall advise and comment on whether the proposed amendment is consistent with the City Comprehensive Plan, CAMA Core Land Use Plan, and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Aldermen 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, CAMA Core Land Use Plan or other applicable plan shall not preclude consideration or approval of the proposed amendment by the Board of Aldermen.

Section 4-3: Action by the Board of Aldermen

- (A) Consideration. The Board of Aldermen shall consider the recommendation of the Planning Board before taking action on the proposed amendment. If no written report is received from the Planning Board within thirty (30) days of the referral of the amendment to the Board, the Board of Aldermen may proceed in its consideration of the amendment without the Planning Board report. The Board of Aldermen is not bound by the recommendation, if any, of the Planning Board.
- (B) Procedure and Decision. Board of Aldermen members 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. Prior to adopting or rejecting any zoning amendment, the Board shall adopt a written statement describing whether its action is consistent with the City Comprehensive Plan, CAMA Core Land Use Plan or other applicable plan, analyzes the reasonableness of the proposed rezoning (including but not limited to small-scale rezonings), and explaining why the Board considers the action to be reasonable and in the public interest.

Section 4-4: Resubmission of a Denial Petition

No resubmission of a denial petition may be resubmitted within six (6) months of its previous denial.