

## **ARTICLE XIII Amendment Procedures; Conditional Districts**

### **13.1 General**

The Board of Commissioners may amend, supplement or change the Zoning Ordinance text and zoning district lines and designations according to the following procedure. It is the intent of this Ordinance that the applicant for rezoning to any district other than a Conditional District shall be prohibited from offering any testimony or evidence concerning the specific manner in which he intends to use or develop the property. If the applicant believes that the development of his property in a specific manner will lessen adverse effects upon surrounding properties or otherwise make the rezoning more in accordance with the principles underlying the City's Comprehensive Plan, he/she shall apply for rezoning to the appropriate Conditional District specifying the nature of the proposed development and submit a preliminary site specific development plan.

### **13.2 Amendment Initiation**

Applications to change, supplement or amend this Ordinance may be initiated by:

#### **A. Text Amendment**

1. The Board of Commissioners;
2. The Planning Board;
3. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the authorized agent of such person.

#### **B. Map Amendment**

1. The Board of Commissioners;
2. The Planning Board;
3. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the authorized agent of such person. Provided, however, map amendments involving Conditional Districts may only be initiated by the owner or authorized agent of the owner.

**13.3 Submittal**

All applications for Amendments to this Ordinance shall be in writing, signed and filed with the Zoning Administrator. The Zoning Administrator, before scheduling any application for Amendment for consideration by the Planning Board, shall ensure that it contains all the required information as specified in this Ordinance and on the application form. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance shall not be scheduled by the Zoning Administrator, but shall be returned to the applicant with a notation of the deficiencies in the application.

All applications for Amendment shall contain, as a minimum, a description of the proposed change, and if it would require a change of the Official Zoning Map, the application shall include a map drawn to a scale of not less than four hundred (400') feet to the inch and not more than twenty (20') feet to the inch showing the land covered by the proposed amendment, a legal description of the property and a list of names and addresses of all owners of property involved in the map change and all adjoining property owners as shown on County tax records.

For a Conditional District rezoning, the applicant shall submit an Amendment application and a preliminary site-specific development plan to the Zoning Administrator. In the Amendment application, the applicant shall describe the exact land use(s) proposed for the Conditional District rezoning. Such use(s) may be selected from any of the uses, whether permitted by right or conditional, allowed in the general zoning district upon which the Conditional District rezoning is based. The applicant may also submit any other conditions limiting the type, scope or intensity of development or use of the subject property for consideration by the Board of Commissioners. Following approval of the rezoning, the applicant shall file an application for a final site-specific development plan with the Zoning Administrator that is consistent with the approved preliminary site-specific development plan and any supplemental conditions set forth as part of the Conditional District rezoning approval.

**13.4 Planning Board Action**

The Zoning Administrator shall present any properly completed application for Amendment to the Planning Board at its next regularly scheduled meeting. Applications must be submitted to the Planning Department by the 1<sup>st</sup> day of the month in order to be considered at that month's Planning Board meeting. ~~Amendment proposals originated by Board of Commissioners are not required to be submitted to the Planning Board.~~

The Planning Board shall recommend either in favor of an amendment or in opposition to an amendment by simple majority vote of those present and voting. The Board may also propose conditions to their recommendation. A tie vote on a proposal shall be considered to be in opposition to such amendment.

**13.5 Board of Commissioners Action**

The Zoning Administrator shall present any recommended amendments to the Board of Commissioners at a regularly scheduled meeting, following Planning Board action, at which it hears rezoning proposals. The Zoning Administrator shall transmit to the Board of Commissioners the Planning Board's record of action on the proposed amendments.

The Board of Commissioners shall take such lawful action on such proposals, as it may deem advisable provided that no Zoning Amendment shall be adopted until after a public hearing shall have been held. Notice of public hearing shall be given as required by NCGS 160D.

**13.6 Special Provisions for Conditional District Rezoning**

The Board of Commissioners shall hear the Conditional District rezoning request and review the preliminary site-specific development plan concurrently, except that the final decision to approve or deny each request shall be by a separate vote. The Board of Commissioners shall first make a decision whether to grant approval for the requested Conditional District rezoning. If the Conditional District rezoning request is denied, the Board of Commissioners will no longer consider the request for approval of the preliminary site-specific development plan. If the Conditional District rezoning is approved, the Board of Commissioners shall then make a decision whether to approve the preliminary site-specific development plan.

The approval of a rezoning to a Conditional Zoning District does not authorize development activity. The rezoning to the Conditional Zoning District and approval of the preliminary site-specific development plan shall authorize the applicant to apply for a final site-specific development plan. The Technical Review Committee shall review final site-specific development plans. The approval of a final site-specific development plan shall constitute approval of the use(s) requested in the application and approved by the Board of Commissioners.

If any condition imposed, or consideration made, is found to be illegal or invalid, or if an applicant should fail to accept a condition such Conditional District rezoning and preliminary site-specific development plan shall be null and void. Proceedings will be instigated to rezone the property to its previous classification.

A violation of a condition of rezoning to a Conditional Zoning District as set forth in the final development plan and a violation of other related official documents associated with such rezoning are considered violations of this Ordinance subject to the same remedies and penalties. Upon determining that such a violation has occurred, the Zoning Administrator shall notify the property owner of his findings and set a reasonable time for the violation to be corrected or abated in accordance with Article XIV. When a violation is not corrected or abated within the time period set by the Administrator, the Administrator or any person aggrieved may institute appropriate action proceedings to correct or abate the violation consistent with Article XIV of this Ordinance.

**13.7 Maximum Number of Applications**

No application for the same zoning district applicable to the same property or any part thereof shall be filed until the expiration of twelve (12) months from:

- A. The date of final determination by the Board of Commissioners or Planning Board recommendation for denial; or
- B. The date of the public hearing or scheduled public hearing if the application is withdrawn after it has been advertised for public hearing.

Fees submitted for withdrawn cases shall not be refundable.