

Article XIII. AMENDMENT PROCEDURES; CONDITIONAL USE DISTRICTS

Section 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 Use 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 zoning plan, he shall apply for rezoning to the appropriate Conditional Use District and simultaneously apply for a Conditional Use Permit specifying the nature of his proposed development. No permit shall be issued for any development within a Conditional Use District except in accordance with an approved Conditional Use Permit.

Section 13.2 Amendment Initiation

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

1. Textual Amendment.
 - a. The Board of Commissioners;
 - b. The Planning Board;
 - c. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the authorized agent of such person.

2. Map Amendment.
 - a. The Board of Commissioners;
 - b. The Planning Board;
 - c. 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 Use Districts may only be initiated by the owner or authorized agent of the owner.

Section 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.

Completed applications shall be received by the 1st of the month in order to be considered at that month's meeting.

All applications for amendment shall contain, as a minimum, a description of the proposed change, and if it would require a change of the zoning maps, 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.

Any application requesting a change to a Conditional Use District shall be accompanied by a Conditional Use Permit application showing the use or uses proposed and any conditions being proposed by the applicant.

Section 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 1st 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 either recommend 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.

Section 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 NC G.S. 160A, Article 19, Part 3 (Zoning).

Section 13.6 Protest Petition

In case, however, of a protest against such change, signed by the owners of twenty percent (20%) or more either of the area of the lots included in a proposed change, or of those immediately adjacent thereto, an amendment shall not become effective except by favorable vote of three-fourths of all the members of the Board of Commissioners. 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.

No protest against any change in or amendment to the Zoning Map shall be valid or effective for the purposes of this Article 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 five (5) normal work days, excluding Saturday, 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. All protest petitions shall 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.

Section 13.7 Special Provisions for Conditional Use Districts and Conditional Use Permits Associated with Conditional Use District Rezoning

Proposals for rezoning to any Conditional Use District shall always be accompanied by a request for a Conditional Use Permit. Such proposals and requests shall be processed and considered in the same procedure as conventional rezoning proposals, except as otherwise set forth herein, and the voting shall be the same as that required for zoning matters.

Any proposal for Conditional Use District rezoning and its accompanying request for a Conditional Use Permit shall be heard and considered simultaneously. If the Board of Commissioners should determine that the property involved in the proposal should be rezoned and the Conditional Use Permit issued, it shall adopt an Ordinance rezoning the property and authorizing the issuance of the Conditional Use Permit. Otherwise the proposal shall be denied.

In granting a Conditional Use Permit as part of a Conditional Use District rezoning, the Board of Commissioners shall make the following affirmative findings:

1. That the Use(s) requested is among those listed as an eligible Conditional Use in the Conditional Use District in which the subject property is located or is to be located.
2. That the Use Limitations and Conditions as proposed and/or imposed for the Conditional Use Permit meet or exceed and/or are at least as restrictive as the minimum standards for the corresponding General Use District.

3. That the use limitations and conditions as proposed and/or imposed for the requested Conditional Use Permit can reasonably be implemented and enforced for the subject property.
4. That when implemented the proposed and/or imposed use limitations and conditions will mitigate specific land development issues that would likely result if the subject property were zoned to accommodate all the uses and the minimum standards of the corresponding General Zoning District.
5. That the applicant has agreed to accept the use limitations and conditions as proposed and/or imposed for the requested Conditional Use Permit.

In granting a Conditional Use Permit, the Board of Commissioners may impose such additional restrictions and requirements upon such Permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. If all requirements and conditions are accepted by the applicant, the Board of Commissioners shall authorize the issuance of the Conditional Use Permit, otherwise the Permit shall be denied.

Any Conditional Use Permit so authorized shall be perpetually binding upon the property included in such Permit unless subsequently changed or amended by the Board of Commissioners, as provided for in this Article.

The Board of Commissioners may change or amend any Conditional Use Permit, after a public hearing upon recommendation by the Planning Board and subject to the same consideration as provided for in this section for the original issuance of a Conditional Use Permit.

No proposal to amend or change any Conditional Use Permit shall be considered within twelve (12) months of the date of the original authorization of such Permit or within twelve (12) months of hearing of any previous proposal to amend or change any such Permit.

Section 13.8 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:

1. The date of final determination by the Board of Commissioners or Planning Board recommendation for denial; or
2. 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.