

# CHAPTER 14:

## MAP AND TEXT AMENDMENTS

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## CHAPTER 14: MAP AND TEXT AMENDMENTS

### Section 14.1 Purpose

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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 Unified Development Ordinance text or Zoning Map are also set forth.

### Section 14.2 Amendment Initiation

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- A. Any amendment may be initiated by the Town Board of Aldermen or Planning Board on its own resolution, by any owner of a legal or equitable interest in the property affected by the amendment, or by a local government agency of Granite Quarry, or by any other person living or owning property within the zoning jurisdiction of Granite Quarry in accordance with the procedures set forth herein.
- B. For Conditional Use District Rezonings, only an owner of a legal or equitable interest in the property may initiate the amendment.

### Section 14.3 Application Submittal

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#### 14.3.1 Applications for All Amendments

An application form and fee shall be submitted by the applicant to the Zoning Administrator. The application shall include a description of the proposed change. The application form and fee shall be waived for any amendment request submitted by a Granite Quarry official or agency acting on behalf of the Town of Granite Quarry. Completed applications shall be forwarded by the Zoning Administrator to the Planning Board at their next regularly scheduled meeting.

#### 14.3.2 Text Amendments

For text amendments, 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.

#### 14.3.3 Map Amendments (Rezonings)

- A. For all map amendments (rezonings), applications shall contain a statement regarding the consistency of the request with adopted Town plans and the surrounding area.
- B. For Conditional Use District map amendments (rezonings), the application shall be accompanied by a Conditional Use Permit request showing the use or uses proposed and any conditions being proposed by the applicant. The applicant shall also provide a statement of reasonableness regarding the request on the application. In addition to the application, the applicant shall submit a site specific plan meeting the requirements of Chapter 12.

**Section 14.4 Text Amendment Process**

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Any proposed amendment to the Unified Development Ordinance shall follow the Town Board approval process as outlined in the Development Review Process in Section 11.4. Upon approval of the text amendment, the Zoning Administrator shall oversee the updating of the UDO to reflect the approved changes.

**14.4.1 Planning Board Action**

- A. The Planning Board shall have 30 days from the initial referral of the request by the Zoning Administrator to either recommend in favor of an amendment or in opposition to an amendment in writing by simple majority vote of those present and voting. The Planning Board shall include in their recommendation a statement of consistency. If the Planning Board should fail to act on any proposed amendment within 30 days after it is referred to the Board the request shall be forwarded to the Town Board of Aldermen without a recommendation.
  
- B. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies.

**14.4.2 Town Board of Aldermen Action**

- A. Upon receipt of a recommendation from the Planning Board, the Town Board of Aldermen shall conduct a legislative public hearing. Notice of public hearing shall be given as required by NCGS 160A-364 once a week for two consecutive weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the public hearing date.
  
- B. The Town Board of Aldermen shall include with its decision a written statement regarding the consistency of the request with adopted Town plans and policies.
  
- C. Upon approval of the text amendment, the Zoning Administrator shall oversee the updating of this Ordinance to reflect the approved changes.

**Section 14.5 Standard Rezoning Process**

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**14.5.1 General Provisions**

- A. Any proposed amendment to the Zoning Map shall follow the Town Board approval process as outlined in the Development Review Process in Section 11.4. Upon approval of the map amendment, the Zoning Administrator shall oversee the updating of the Zoning Map to reflect the approved changes.
  
- B. When considering a standard rezoning request neither the Planning Board nor the Town Board of Aldermen 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 map amendment for a Conditional Use District as outlined below.

**14.5.2 Planning Board Action**

- A. The Planning Board shall have up to 30 days from the date of referral by the Zoning Administrator to recommend approval, approval with conditions, or denial of the request to the Town Board of Aldermen.
- B. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area.

**14.5.3 Town Board of Aldermen Action**

- A. Upon receipt of a recommendation from the Planning Board, the Town Board of Aldermen shall conduct a legislative public hearing. Notice of the public hearing shall be given as follows:
  - 1. A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the public hearing. The expanded published notice option for rezonings (map amendments) noted in (2) below shall consist of a notice not less than one-half (1/2) of the newspaper page in size.
  - 2. A notice of the public hearing shall also be sent by first class mail by the Zoning Administrator or designee to the affected property and to all contiguous property owners. The first class mail notice shall not be required if a Rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. Instead the Town may elect to use expanded published notice as noted above in (A). However, property owners whose addresses are not within the general circulation area of the newspaper shall still receive a notice of public hearing by first class mail.
  - 3. For Rezonings (map amendments), the Town shall conspicuously post a notice of public hearing at the site proposed for rezoning at least 10 days prior to the public hearing. When multiple parcels are included within a proposed map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public hearing has been held.
- B. The Town Board of Aldermen shall include with its decision a written statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area.

**Section 14.6 Conditional Use District Rezoning Process**

**14.6.1 General Provisions**

- A. Any proposed amendment to the Zoning Map shall follow the Town Board of Aldermen approval process as outlined in the Development Review Process in Section 11.4. Upon approval of the map amendment, the Zoning Administrator shall oversee the updating of the Zoning Map to reflect the approved changes.
- B. The Conditional Use District (CUD) approval process is established to address those situations when a particular use may be acceptable but the general zoning district(s) that would allow that use would not be acceptable. Rezoning of property to any CUD district is a voluntary procedure on the part of the property owner and is intended for firm development proposals. It is not intended or suited for securing early zoning for a tentative proposal that may be undertaken at some unknown time in the future. Such zones may be approved or changed only by the Town Board of Aldermen in accordance with the regulations contained herein.
- C. The applicant initiating a CUD Rezoning shall provide at a minimum the drawings and information required for a Major Site Plan or Major Subdivision as outlined in Chapter 12.
- D. When considering a petition for a rezoning to a Conditional Use District, the Planning Board and the Town Board of Aldermen shall evaluate the petition based on specific proposal for the use or development of the affected property and the petitioner shall provide materials and descriptions of the proposed use and development.
- E. Any use permitted under this process must also, as a minimum, conform to the development regulations for the corresponding underlying general zoning district.
- F. 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 a quasi-judicial manner.
- G. Any proposal for Conditional Use District rezoning and its accompanying request for a Conditional Use Permit shall be heard and considered simultaneously. If the Town Board of Aldermen 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.
- H. In approving a Conditional Use District Rezoning, the Town Board of Aldermen may impose such additional restrictions and requirements upon approval 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 Town Board of Aldermen shall authorize the issuance of the associated Conditional Use Permit, otherwise the Permit shall be denied.

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- I. Any request to materially change the conditions specified within a Conditional Use District once it has been rezoned shall be subject to the entire Town Board of Aldermen Approval process.
- J. The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions. If any person submits competent, material, and substantial evidence allegedly contrary to any of the facts or conditions, the burden of proof for overcoming such evidence shall rest with the applicant.

### 14.6.2 Planning Board Action

- A. The Planning Board shall have up to 30 days from the date of referral by the Zoning Administrator to recommend approval, approval with conditions, or denial of the request to the Town Board of Aldermen.
- B. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area.
- C. The Planning Board shall also include with its recommendation a written statement regarding the reasonableness of the request.

### 14.6.3 Town Board of Aldermen Action

- A. Upon receipt of a recommendation from the Planning Board, the Town Board of Aldermen shall conduct a quasi-judicial public hearing. Notice of the public hearing shall be given as follows:
  1. A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the public hearing. The expanded published notice option for Rezoning (map amendments) noted in (B) below shall consist of a notice not less than one-half (1/2) of the newspaper page in size.
  2. A notice of the public hearing shall also be sent by first class mail by the Zoning Administrator or designee to the affected property and to all contiguous property owners. The first class mail notice shall not be required if a Rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. Instead the Town may elect to use expanded published notice as noted above in (A). However, property owners whose addresses are not within the general circulation area of the newspaper shall still receive a notice of public hearing by first class mail.
  3. For Rezoning (map amendments), the Town shall conspicuously post a notice of public hearing at the site proposed for rezoning at least 10 days prior to the public hearing. When multiple parcels are included within a proposed map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public hearing has been held.

- B. After the public hearing, the Town Board of Aldermen shall have up to 60 days to refer back to the Planning Board, approve, approve with conditions, or deny the request. Alternatively, the Town Board of Aldermen may suspend the review period and request additional information of the applicant, other governmental agencies, or interested/affected parties in order to aid in the review of the request or deferral of its consideration.
  
- C. The Town Board of Aldermen shall issue a Conditional Use Permit for a Conditional Use District rezoning if it has evaluated an application and found each of the following findings in the affirmative:
  - 1. The use requested is among those listed as an eligible use in the base zoning district in which the subject property is located or is to be located.
  - 2. The use shall, in all other respects, conform to the applicable regulations of the base zoning district in which it is located;
  - 3. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed;
  - 4. The use will not substantially injure the value of adjoining property, or is a public necessity;
  - 5. The use will be in harmony with the area in which it is to be located; and
  - 6. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been, or are being provided.
  
- D. Additionally, the Town Board of Aldermen shall make a statement regarding the consistency of the proposed Conditional Use District rezoning with the Towns adopted plans and policies. The Town Board shall also provide a statement regarding the reasonableness of the request.

**14.6.4 Effect of Approval and Expiration**

- A. If a petition for a CUD Rezoning and Conditional Use Permit are both approved as provided for herein, the district that is established, the approved Conditional Use Permit, and all conditions which may have been attached to the approval are binding on the property as an amendment to the Zoning Map. Subsequent development on the property(ies) in question shall be in accordance with the standards for the approved CUD district, the Conditional Use Permit, and any conditions attached to the approval. Except as herein provided for “minor changes”, changes to the approved petition or to the conditions attached to the approval shall be treated the same as an amendment to the Zoning Map and shall be processed in accordance with the Town Board of Aldermen approval process. Minor changes in the detail of the approved application may be made with the approval of the Zoning Administrator. The following criteria qualify as a “minor change”:
  - 1. The proposed change(s) will not alter the basic relationship of the proposed development to adjacent property; and
  - 2. The proposed change(s) will not alter the uses permitted; and
  - 3. The proposed change(s) will not increase the height of any structure to the extent that additional usable floor space will be added; and
  - 4. The proposed change(s) will not increase the gross floor area of any non-residential use by the smaller of 10 percent or 10,000 square feet. Such limitations shall be

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- cumulative and shall be based on the gross floor area specified in the Conditional Use Permit as originally approved; and
5. The proposed change(s) will not result in an increase in the number of dwelling units constructed for any residential use; and
  6. The proposed change(s) will not decrease the off-street parking below the minimum number of parking spaces required by this Ordinance.
- B. It is intended that property be rezoned to a Conditional Use District only in light of firm plans to develop the property. Therefore, after the date of approval of the Conditional Use District, if a building permit has not been secured or final plat recorded at the end of two (2) years following the date of the approval of the Conditional Use District, the Zoning Administrator shall notify the applicant of such a finding. The Zoning Administrator shall then have the Planning Board to make a recommendation to the Town Board of Aldermen regarding the rescission of the Conditional Use District and the zoning of the property revert to the zoning district in effect prior to the initial approval.

### Section 14.7 Protest Petition

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- A. A valid protest petition against a map amendment request, shall be signed by the owners of 20 percent or more of the subject area or five (5) percent of the surrounding property extending 100 feet from the subject area. Where the subject area abuts a street right-of-way, the 100 feet shall be measured starting from the opposite side of the street right-of-way unless the right-of-way is greater than 100 feet.
- B. A protest petition shall not be valid unless it is in the form of a written petition 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 Town Clerk in sufficient time to allow the Town at least two (2) 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 Town, and such form may prescribe any reasonable information deemed necessary to permit the Town to determine the sufficiency and accuracy of the petition. The protest petition must be valid at the time that the vote is taken and shall meet the requirements of NCGS 160A-385 & 386.
- C. If a valid protest petition is filed, then a map amendment shall not become effective except by favorable vote of three-fourths (3/4) of all the members of the Town Board of Aldermen.
- D. Protest petitions 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.

**Section 14.8 Resubmission of Request**

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- A. If the Town Board of Aldermen has denied an application for the rezoning of a piece of property or has approved a rezoning to a general zoning district which is more restrictive than that which was originally requested, the Planning Board shall not review any applications for the same changes affecting the same property or any portion thereof until the expiration of one (1) year from the date of such previous denial except as provided below.
  
- B. The Zoning Administrator may allow re-submission of such petition within said one (1) year period if he determines that, since the date of action on the prior petition:
  - 1. There has been a significant change in the zoning district classification of an adjacent piece of property; or
  - 2. The Town Board of Aldermen has adopted a plan that changes public policy regarding how the property affected by the amendment should be developed;
  - 3. Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification; or
  - 4. There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on a new petition; this, however, shall not include a change in the ownership of the subject property.