

## **ARTICLE IX**

### **ZONING DISTRICTS AND ZONING MAP**

#### **PART I. ZONING DISTRICTS**

##### **Section 15-135 Residential Districts Established.**

(a) The following basic residential districts are hereby established: R-20, R-15, R-10, R-7.5, R-3, R-2, R-R, R-S.I.R., and R-S.I.R.-2. The purpose of each of the foregoing residential districts is to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in non-residential districts. (AMENDED 5/12/81; 12/7/83; 2/4/86)

- (5) **B-4 OUTLYING CONCENTRATED BUSINESS.** This zone is designed to accommodate a variety of commercial enterprises that provide goods and services to a larger market area than those businesses permitted in the neighborhood business district. Development regulations also permit higher buildings and increased density over that allowed in the B-3 zone. This zone is intended to create an attractive, concentrated business district in areas that are outside the town's central business district but that are served by the town's major thoroughfares. Examples of permitted uses include shopping centers, professional offices and motels. Uses that are not permitted include outside storage and drive-in theaters.

##### **Section 15-141.3 Conditional Use Zoning Districts (AMENDED 5/25/04)**

(a) The following conditional use zoning districts are hereby established: RR-CU, R-20-CU, R-15-CU, R-10-CU, R-7.5-CU, R-3-CU, R-2-CU, R-S.I.R.-CU, R-S.I.R.-2-CU, B-1(c)-CU, B-1(g)-CU, B-2-CU, B-3-CU, B-4-CU, CT-CU, B-3-T-CU, O-CU, M-1-CU, and M-2-CU. The provisions of this section applicable to these conditional use-zoning districts do not affect or apply to other conditional use zoning districts established under this chapter, including the Office/Assembly Conditional Use District, or the Village Mixed Use Conditional Use District.

(b) The conditional use zoning districts established in this section may be applied to property only in response to a petition signed by all the owners of the property to be included within such district.

(c) The uses permissible within a conditional use zoning district established herein, and the regulations applicable to property within such a district, shall be those uses that are permissible within and those regulations that are applicable to the general use zoning district to which the conditional use district corresponds, except as otherwise provided in this section. For example, property that is rezoned to a B-2-CU district may be developed in the same manner as property that is zoned B-2, except as provided in this section.

(d) Subject to subsection (f), all uses that are permissible in the conditional use zoning district shall require the issuance of a conditional use permit, regardless of whether a use in the corresponding general use district would ordinarily require (according to the Table of Permissible Uses) a zoning permit, special use permit, or conditional use permit.

(e) When a rezoning petition for a conditional use zoning district is submitted (in accordance with Article XX of this chapter), the applicant shall simultaneously submit a conditional use permit application showing how the applicant proposes to develop the entirety of the property covered in the rezoning petition.

1. The rezoning and conditional use permit applications shall be processed and reviewed concurrently.
2. The Board of Aldermen shall simultaneously conduct a public hearing on the rezoning and conditional use permit applications, in accordance with the procedures applicable to other conditional use permit applications.
3. If the Board concludes in the exercise of its legislative discretion that the proposed rezoning would not be consistent with the public health, safety, or welfare, it may deny the application in accordance with the same procedures applicable to any ordinance amendment request.
4. If the Board approves the rezoning request, it shall then vote on whether to issue the conditional use permit. Such permit may be issued subject to reasonable conditions and requirements as set forth in Section 15-59.
5. If the conditional use permit is allowed to expire (under Section 15-62), the Board may initiate action to rezone the property to any appropriate general use district classification. In addition, notwithstanding any other provision of this ordinance, the Board shall be under no obligation to consider any major modification of a conditional use permit issued in connection with a conditional use rezoning or any new conditional use permit for property that has been the subject of a conditional use rezoning.

(f) If a conditional use permit issued in connection with a conditional use rezoning authorizes the creation of a residential subdivision containing lots intended for development with not more than four dwelling units each, and the conditional use permit application does not provide sufficient information to authorize a development permit for such lots, then such lots may be developed pursuant to the issuance of a zoning permit (i.e. each lot will not require an amendment to the conditional use permit issued for the overall development).

## **ARTICLE XX**

### **AMENDMENTS**

#### **Section 15-320 Amendments in General**

(a) Amendments to the text of this chapter or to the zoning map may be made in accordance with the provisions of this article, or in the case of nonsubstantive editorial changes, may be made administratively by the planning director, as described in Section 15-38 of this ordinance. **(AMENDED 09/01/87)**

(b) The term “major map amendment” shall refer to an amendment that addresses the zoning district classification of five or more tracts of land in separate ownership or any parcel of land (regardless of the number of lots or owners) in excess of fifty acres. All other amendments to the zoning district map shall be referred to as “minor map amendments.”

(c) All properties within the University Lake Watershed are zoned WR, B-5, WM-3 or C. As provided in Subsection 15-137(b), no additional areas may be rezoned WM-3 or B-5, and no areas within the University Lake Watershed may be rezoned to any classification other than WR, or C. **(AMENDED 10/15/96)**

(d) The regulations applicable to the watershed districts do, and all amendments to these regulations shall, comply with the water supply watershed protection rules promulgated by the State pursuant to G.S. 143-214.5. Copies of all amendments to Sections 15-265 or 15-266 shall be sent to the Division of Community Assistance, Division of Environmental Health, and Division of Water Quality. **(AMENDED 10/15/96)**

#### **Section 15-321 Initiation of Amendments**

(a) Whenever a request to amend this chapter is initiated by the Board of Aldermen, the planning board, the board of adjustment, the appearance commission, or the town administration, the town attorney in consultation with the planning staff shall draft an appropriate ordinance and present that ordinance to the Board of Aldermen so that a date for a public hearing may be set.

(b) Any other person may also petition the Board to amend this chapter. The petition shall be filed with the planning department and shall include, among the information deemed relevant by the planning department:

- (1) The name, address, and phone number of the applicant.
- (2) A description of the land affected by the amendment if a change in zoning district classification is proposed.
- (3) Stamped envelopes containing the names and addresses of all those to whom notice of the public hearing must be sent as provided in Section 15-323.

- (4) A description of the proposed map change or a summary of the specific objective of any proposed change in the text of this chapter.
  - (5) A concise statement of the reasons why the petitioner believes the proposed amendment would be in the public interest.
- (c) Upon receipt of a petition as provided in (b), the planning staff shall either:
  - (1) Treat the proposed amendment as one initiated by the town administration and proceed in accordance with subsection (a) if it believes that the proposed amendment has significant merit and would benefit the general public interest; or
  - (2) Forward the petition to the Board with or without written comment for a determination of whether an ordinance should be drafted and a public hearing set in accordance with subsection (d).
- (d) Upon receipt of a proposed ordinance as provided in subsection (a), the Board may establish a date for a public hearing on it. Upon receipt of a petition for an ordinance amendment as provided in subsection (b), the Board may summarily deny the petition or set a date for a public hearing on the requested amendment and order the attorney, in consultation with the planning staff, to draft an appropriate ordinance.

**Section 15-322 Planning Board and Other Advisory Consideration of Proposed Amendments**

(a) If the Board sets a date for a public hearing on a proposed amendment, it shall also refer the proposed amendment to the planning board for its consideration and may refer the amendment to the appearance commission if community appearance is involved, and may refer the amendment to the transportation advisory board if the amendment involves community transportation issues and may refer the amendment to the environmental advisory board if the amendment involves community environment issues. **(AMENDED 09/19/95, REWRITTEN 02/25/14)**

(b) The planning board shall advise and comment on whether the proposed amendment is consistent with the Land Use Plan, Thoroughfare Plan, or other applicable plans officially adopted by the Board of Aldermen. 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. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the Board of Aldermen may proceed in its consideration of the amendment without the planning board report. **(AMENDED 10/24/06)**

(c) A comment by the planning board that a proposed amendment is inconsistent with the Land Use Plan, Thoroughfare Plan or other officially adopted plan shall not preclude consideration or approval of the proposed amendment by the Board of Aldermen, and the Board of Aldermen is not bound by the recommendations of the planning board. **(AMENDED 10/24/06)**

(d) A member of the planning board and any other advisory committee that provides direct advice to the Board of Aldermen (i.e. it does not report to the planning board) shall not vote on recommendations regarding 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. **(AMENDED 10/24/06)**

### **Section 15-323 Hearing Required: Notice**

(a) No ordinance that amends any of the provisions of this chapter may be adopted until a public hearing has been held on such ordinance.

(b) The planning staff shall publish a notice of the public hearing on any ordinance that amends the provisions of this chapter once a week for two successive weeks in a newspaper having general circulation in the Carrboro area. The notice shall be published for the first time not less than ten days nor more than twenty-five days before the date fixed for the hearing. This period is to be computed in accordance with G.S. 160A-364, which provides that the date of publication is not counted but the date of the hearing is.

(c) With respect to all map amendments, the planning staff shall mail, by first class mail, written notice of the public hearing to the record owners of all properties whose zoning classification is changed by the proposed amendment as well as the owners of all properties any portion of which is within 1000 feet of the property rezoned by the amendment. For purposes of this section the term "owners" shall mean the persons shown as owners on Orange County's computerized land records system. The planning staff shall also make reasonable efforts to mail a similar written notice to the non-owner occupants of residential rental property located within 1,000 feet of the lot that is the subject of the rezoning. The notices required by this subsection shall be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. The staff member mailing such notices shall certify to the board that the notices have been mailed, and such certificate shall be deemed conclusive in the absence of fraud. **(AMENDED 10/12/82; 1/22/85; 10/1/85; 04/15/97; 3/26/02)**

(d) The first class mail notice required under subsection (c) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to either make the mailed notice provided for in subsection (c) of this section or may, as an alternative, elect to publish notice of the hearing as required by G.S. 160A-364, but provided that each advertisement shall not be less than one-half (1/2) of a newspaper page in size. The advertisement 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 newspaper circulation area, according to the address listed on the most recent Orange County property tax listing for the affected property, shall be notified according to the provisions of subsection (c) of this section. **(AMENDED 10/24/06)**

(e) For proposed zoning map amendments, the planning staff shall prominently post a notice of the public hearing on the site proposed for a rezoning or 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 planning staff shall post sufficient notices to provide reasonable notice to interested persons.

(f) The planning staff shall take any other action deemed by the Planning Department to be useful or appropriate to give notice of the public hearing on any proposed amendment.

(g) The notice required or authorized by this section (other than the posted notice required by subsection (e)) shall: **(AMENDED 11/24/09)**

- (1) State the date, time, and place of the public hearing.
- (2) Summarize the nature and character of the proposed change.
- (3) If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment.
- (4) State that the full text of the amendment can be obtained from the town clerk.
- (5) State that substantial changes in the proposed amendment may be made following the public hearing.

(h) The planning staff shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is the Board's intention that the notice requirements set forth in this section that are not required by state law shall not be regarded as mandatory, and therefore a failure to comply with such requirements shall not render any amendment invalid. **(AMENDED 11/24/09)**

(i) Except for a town-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply (regardless of how the staff treats the proposed amendment under subsection 15-321(c)), the applicant shall certify to the Board of Aldermen that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The person or persons required to provide notice shall certify to the Board of Aldermen that proper notice has been

provided in fact, and such certificate shall be deemed conclusive in the absence of fraud. (AMENDED 11/24/09)

(j) Actual notice of the proposed amendment and a copy of the notice of public hearing required under subsection 15-323(i) of this section shall be by any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). This subsection applies only to an application to request a zoning map amendment where the application is not made by the owner of the parcel of land to which the amendment would apply. This subsection does not apply to a city-initiated zoning map amendment. (AMENDED 11/24/09)

#### **Section 15-324 Board Action on Amendments (AMENDED 10/24/06)**

(a) At the conclusion of the public hearing on a proposed amendment, the Board may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

(b) The Board is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.

(c) Voting on amendments to this chapter shall proceed in the same manner as on other ordinances, subject to Section 15-326 of the Land Use Ordinance and Section 2-15 of the Town Code.

(d) Prior to adopting or rejecting any zoning amendment, the Board shall adopt a statement describing whether its action is consistent with the Land Use Plan, Thoroughfare Plan, or other applicable plan officially adopted by the Board and explaining why the Board considers the action taken to be reasonable and in the public interest. This statement is not subject to judicial review.

(e) A Board member 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. (See also Carrboro Town Code Section 2-35).

#### **Section 15-325 Ultimate Issue Before Board on Amendments**

In deciding whether to adopt a proposed amendment to this chapter, the central issue before the Board is whether the proposed amendment advances the public health, safety or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the mayor and excluded. In particular, when considering proposed minor map amendments:

- (1) Except when the request is to rezone property to a conditional use district or conditional zoning district, the Board shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Board shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification. **(AMENDED 05/25/99; 05/27/08)**
- (2) The Board shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

**Section 15-326 Protests to Zoning Map Amendments (AMENDED 10/24/06).**

(a) If a petition opposing an amendment to the zoning map is filed in accordance with the provisions of this section, then the proposed amendment may be adopted only by a favorable vote of three-fourths of the Board membership. For the 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.

(b) To trigger the three-fourths vote requirement, the petition must: **(AMENDED 11/26/85)**

- (1) 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 zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the Town may rely on the Orange County tax listing to determine the "owners" of potentially qualifying areas. **(AMENDED 10/24/06)**
- (2) 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.
- (3) Be received by the town clerk in sufficient time to allow the town at least two normal working days before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.



(4) Be on a form provided by the town clerk and contain all the information requested on this form.

(c) 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.

(d) The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of this chapter as a result of annexation or otherwise.