

Chapter 11: Map and Text Amendments

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Section 11.1 Purpose

It is understood with the creation of this Ordinance that amendments to the text and zoning map will be necessary. This chapters details the procedure of map (rezoning) and text amendments.

Section 11.1.1 General

The Board of Commissioners may from time-to-time amend, supplement or change the Ordinance text and zoning district lines (but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation).

No amendment shall be adopted by the Board of Commissioners until it has held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in Iredell County at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall appear NOT more than twenty-five (25) or less than ten (10) days prior to the hearing date. In computing the ten (10) to twenty-five (25) day period, the date of publication is NOT to be counted, but the date of the hearing is.

Section 11.1.2 Amendments

Amendments to this Ordinance may consist of changes to the text or the zoning map. Amendments to any portion of this Ordinance as it pertains to watershed, erosion and sedimentation, and floodplain will be required to first be reviewed and approved by the State or Federal agency (ies) charged with oversight of that program. When approval is given by the applicable agency, the local amendment process may then proceed.

An applicant for a zoning map amendment shall be prohibited from offering any testimony or evidence concerning the specific manner in which he intends to use or develop the property. However, if the zoning map amendment is a conditional zoning request then the applicant shall specify the nature and use of his proposed development.

Under no circumstances shall the Board of Commissioners adopt such amendments, supplements or changes that would cause this ordinance to violate any of the rules or statutes listed in Section 1.2.1, Statutory References, of this ordinance. All amendments regarding the watershed protection regulations must be filed with the N.C. Division of Environmental Management, N.C. Division of Environmental Health, and the N.C. Division of Community Assistance.

Section 11.2 Amendment Initiation

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

A. Textual Amendment:

1. The Board of Commissioners;

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

B. Zoning Map Amendment:

1. The Board of Commissioners;
2. The Planning Board;
3. Planning Staff
4. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person. Amendment applications containing less than eighty percent (80%) of the property owners included in the area proposed to be rezoned are subject to the procedural requirement of Section 11.5. Amendments involving Conditional Zoning Districts may only be initiated by the owner or authorized agent of the owner.

Section 11.3 Submittal

All applications for amendments to this Ordinance shall be in writing, signed and filed with the Administrator.

The Administrator, before scheduling any application for amendment for consideration by the Planning Board, shall ensure that it contains all the required information 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 Administrator, but shall be returned to the applicant with a notation of the deficiencies in the application.

Completed applications shall be received a minimum of thirty-one (31) days prior to the Planning Board meeting at which the proposal amendment is scheduled to be considered. Adjustments to the petition or any boundary lines occurring within seven (7) days of either the Planning Board or Board of Commissioners meeting will NOT be considered in either Board's determinations.

All applications for amendment shall contain, as a minimum:

- A. A description of the proposed change,
- B. A map (only for zoning map amendments) drawn to a scale of NOT less than 400 feet to the inch and NOT more than twenty (20) feet to the inch showing:
 1. The land covered by the proposed amendment,
 2. The zoning of the subject property and adjoining properties,
 3. General existing land uses, and
 4. Street systems.

Section 11.4 Planning Board Action

The Zoning Administrator shall present any properly completed application for amendment to the Planning Board at its next regularly scheduled meeting. The Planning Board shall hold a public meeting on the proposed amendment. Notice of the public meeting shall be given in accordance with the Board's rules.

All text amendments to this Ordinance will require at least two Planning Board meetings. At the first meeting the amendments will be presented for information only. At the second meeting the amendment will be brought back for a recommendation.

All zoning map amendments will first be presented and up for recommendation from the Planning Board at the same meeting.

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. If the request is for a Conditional Zoning District, 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. If the Planning Board fails to act on any proposed amendment within thirty one (31) days, or two regular meetings, after it is presented to the Board such failure to act (which includes tabling the item) shall be considered to be a favorable recommendation for the purposes of this procedure.

Section 11.5 Board of Commissioners Action

Section 11.5.1 General

The Zoning Administrator shall present any proposed amendments to the Board of Commissioners at its next regular scheduled meeting, following Planning Board action, at which it considers rezoning proposals. The Zoning Administrator shall transmit to the Board of Commissioners the Planning Board's record of action on the proposed amendments.

Section 11.5.2 Public Hearings

- A. Zoning amendment applications which are initially signed by less than eighty percent (80%) of the owners of all the property involved in the petition shall be placed on the Board of Commissioner's next available agenda for the consideration of setting a public hearing on the matter at a future meeting.

- B. Zoning amendment applications which are initially signed by eighty percent (80%) or more of the owners of all the property involved in the petition shall be placed on the Board of Commissioners agenda for a public hearing on the matter.

- C. No zoning amendment shall be adopted until after a public hearing shall have been held on the matter. Notice of public hearing shall be given as required by NCGS 153A, Article 18, Part 3 (Zoning). The Board of Commissioners shall take such lawful action on such amendment applications as it may deem advisable. Failure of the Board of Commissioners to set a public hearing on an amendment application shall constitute denial of that application.

Section 11.6 Conditional Zoning Districts

A. Intent

The conditional zoning districts included herein allow for the consideration of certain uses that, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole and are created or established for selected criteria as indicated in the applicability section below. The development of these uses cannot be predetermined and controlled by general district regulations. In addition, circumstances arise when a general zoning district designation would NOT be appropriate for a certain property, but specific uses permitted under the district would be consistent with the objectives of this section. To accommodate those situations, this section establishes the conditional zoning district process.

B. Application

Except as herein provided, petitions to establish a conditional zoning district must be submitted and will be processed in accordance with the provisions in this Article. Applications shall be submitted on a form provided by Iredell County's Planning Department.

A conceptual site plan, drawn to scale, may be requested at the discretion of the zoning administrator, Planning Board or by the Board of Commissioners. The application shall have supporting text that, if approved, will become part of the amendment. The text shall specify the actual use or uses intended for the property and any rules, regulations, and conditions that in addition to all predetermined ordinance requirements, will govern the development and use of the property. The uses shall be based on Section 2.21.

The site plan is intended to be conceptual in nature to give a general idea of how the property may be developed and does not need to meet the requirements in Section 9.2.1. If requested the plan shall include the following:

1. A vicinity map showing the property's general location in relation to major streets, railroads, and waterways.
2. A drawing of the parcel, including the parcel identification number. If only rezoning a portion of a parcel, a plat must be provided, drawn to scale, showing the bearings and distances of the portion requested. A map drawn to a scale of NOT less than 400 feet to the inch and NOT more than twenty (20) feet to the inch showing

3. All existing easements, reservations, and rights-of-way on the property(ies) in question.
4. Delineation of areas within the regulatory floodplain as shown on the official Flood Insurance Rate Maps (FIRM) or Digital FIRM for Iredell County and delineation of watershed boundaries labeled with their respective classifications and impervious calculations.
5. For residential uses, the number of units and a general outline of the area where the structures will be located. For nonresidential uses, the approximate square footage of all structures and an outline of the area where the structure will be located.
6. Traffic, parking, and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets including typical parking space dimensions and locations along with typical street cross sections. This shall include all existing and proposed points of access to public streets.
7. All proposed setbacks, buffers, screening and landscaping required by this Article and proposed by the petitioner.
8. Generalized information on the number, height, size, and location of structures.
9. The proposed phasing of the project.
10. The proposed number, location, type and size of all signs.
11. The location and description of any outdoor lighting.

(amended 9/18/18, TA-2018-01)

C. Additional Information

When dealing with the conditional zoning district process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the Planning Director, Planning Board and/or Board of Commissioners may request additional information in addition to that required above, as they deem necessary.

D. Public Input Meeting

Before a public meeting may be held on a petition for a conditional zoning district, the applicant must file a written report detailing at least one (1) community meeting held by the applicant. The community meeting shall be held prior to any recommendation by the planning staff and prior to the Planning Board's consideration of the request. The following procedures must be met:

1. Based on the perceived impact of the proposal, the affected property owners will be notified by the applicant upon recommendation by the planning staff.

Such notice shall be mailed to said property owners NOT less than ten (10) days prior to the date of the public input meeting and a certification of this mailing shall be submitted as part of the required report. The notice shall contain information regarding the time and location of the public input meeting, as well as a description of the proposal.

2. The report shall include, among other things, a listing of the following:
 - a. Those persons and organizations contacted about the meeting,
 - b. The manner and date, time and location of the meeting,
 - c. A roster of persons in attendance at the meeting,
 - d. A summary of issues discussed at the meeting, and
 - e. A description of any changes to the rezoning petition as a result of the meeting.

E. Review

In evaluating an application for the establishment of a conditional zoning district, it is appropriate for the Planning Board and Board of Commissioners to consider the following:

1. Adherence to the general policies and objectives of the adopted land use plan, particularly in relation to the proposed site and surrounding area;
2. The potential impacts on the surrounding area, including but NOT limited to the absolute certainty of the specific use(s), traffic, erosion, land values and the compatibility of land use activities.
3. Spot zoning:
 - a. Size of tract;
 - b. Compatibility with adopted plan;
 - c. Public benefits and detriments of proposed rezoning; and
 - d. The relationship between proposed use and current use of adjacent properties.

F. Conditions of Approval of Petition

In approving a petition for the reclassification of a piece of property to a conditional zoning district, the Planning Board may recommend and the Board of Commissioners may of its own accord require that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions shall be limited to those that address the conformance of the development plan and use of the site to county ordinances and adopted land development plans. Conditions should address the impacts reasonably expected to be generated by the development or use of the site.

The petitioner shall have a reasonable opportunity to consider and respond to any proposed conditions prior to final action by the Board of Commissioners. Only those conditions mutually agreed upon by Board of Commissioners and the applicant, with input from the public, may be incorporated into the conditional zoning district.

G. Effect of Approval

If a petition for conditional zoning district is approved the development and use of the property shall be governed by:

1. The standards and regulations applicable to the district's zoning classification;
2. The approved site plan for the district;
3. Any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district; and
4. All general and additional rules, regulations and conditions adopted as part of the conditional zoning district shall be an amendment to these regulations and the Zoning Map.

H. Zoning Map Designation

Following approval of the petition for a conditional zoning district, the subject property shall be identified on the Zoning Map by the appropriate district designation followed by the letters "CD" and the case number.

I. Determination – Major Change Requiring an Amendment

Before making a determination as to whether a proposed action is an amendment based upon a major change, the Planning Director shall review the record of the proceedings on the original application for the approval of the conditional zoning district.

1. A change in a specific or general use category shall constitute a new application.
2. The Planning Director shall use the following criteria in determining whether a proposed change is an amendment constituting a major change to the approved conditional zoning district:
 - a. An increase in intensity of use which means an increase in:
 - i. Usable floor area by ten percent (10%) or more; or
 - ii. Number of dwelling or lodging units ten percent (10%) or more; or
 - iii. Outside land area devoted to sales, displays, or demonstrations.
 - b. Any change in use resulting in a more intensive use;
 - c. Any change in parking areas resulting in an increase or reduction of ten percent (10%) or more in the number of spaces approved by the Board of Commissioners;
 - d. Structural alterations significantly affecting the basic size, as shown on the approved plan;
 - e. A ten percent (10%) or more decrease in the amount or location of open space, recreation facilities, or landscape screening; and
 - f. Substantial changes in pedestrian or vehicular access or circulation.

3. If the Planning Director determines that the proposed action requires an amendment, he shall require the applicant to file a request for approval of the amendment, which shall be submitted to the Planning Board and Board of Commissioners under the process described in this article.

J. Minor Changes and Modifications

The Planning Director shall have the delegated authority to approve minor changes in the conditional zoning district provided they are in harmony with the action of the Board of Commissioners. A minor change shall mean:

1. Any change in location or any increase in the size or number of signs;
2. Any change in use resulting in a less intensive use;
3. Increases the intensity of nonresidential development by less than ten percent (10%) or 1,000 square feet, whichever is less;
4. Any change(s) that increases the density of residential development by less than ten percent (10%);
5. Any time an applicant agrees to impose standards that are more stringent than those previously approved by the Board of Commissioners; or
6. All other changes or modifications to the conditional zoning district shall be treated the same as amendments to these regulations or the zoning map.

K. Review of Approval of a Conditional Zoning District

No sooner than eighteen (18) months after the date of approval of the petition, the Planning Director may examine the progress made toward developing the property in accordance with the approval petition and any conditions attached to the approval. If the Planning Director determines that progress has NOT been made in accordance with the approved petition and conditions, the Planning Director shall forward to the Board of Commissioners a report which may recommend that the property revert back to the previous zoning classification in accordance with the procedure set out in Section 11.3.

(amended 12/5/17, TA-2017-03)

Section 11.7 Maximum Number of Applications

In the case where a petition for a change in zoning classification has been denied by the Board of Commissioners after a public hearing, no new petition for the same change of the same property or any part thereof shall be filed within a period of twenty-four (24) months from the date of such decision by the Commissioners; further, no new petition for any other change in the zoning classification of the same property or any part thereof shall be filed within a period of twelve (12) months from the date of such decision by the Commissioners.

In any case where a petition for a change in zoning classification receives an unfavorable recommendation from the Planning Board after a public meeting and the petitioner withdraws his application, no new petition for any change in zoning classification of the same property or any part thereof shall be filed within a period of 180 days immediately following the withdrawal of the petition. However, if in the opinion of the Board of Commissioners, significant changes are made to the facts concerning the request, or specific changes are proposed to meet any concerns or questions posed by the Planning Board, the application may be re-submitted to the Planning Board for their consideration within that time.

Failure of the Board of Commissioners to set a public hearing on a rezoning proposal shall constitute denial of the request.

In no case shall fees charged to submit a rezoning application be refunded.

Nothing in this Section is intended to prevent the submittal of a second application for the same property or any part thereof in any case where the first application is either withdrawn by the applicant prior to action by the Planning Board or action by the Planning Board is continued on the first application, provided that the second application is for a Conditional Zoning District(s).