

## ARTICLE X

### ADMINISTRATION AND ENFORCEMENT

Section 1001. Zoning Administrator. It shall be the duty of the Zoning Administrator to enforce and administer the provisions of this Chapter. The Granite Falls Town Planner, or other individual(s) authorized by the Town Manager, shall serve as the Zoning Administrator.

Section 1001.1 Notice of Violation. If the Zoning Administrator finds that any of the provisions of this Chapter are being violated, the Zoning Administrator shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. Notice shall be provided consistent with G.S. §160D-404(a).

Section 1001.2 Stop Work Order. The Zoning Administrator shall be authorized to issue a Stop Work Order whenever any work or activity is undertaken in substantial violation of this Chapter or in a manner that endangers life or property. The contents of the order and the method of its delivery shall be consistent with G.S. §160D-404(b).

Section 1001.3 Appeals of Decision of Zoning Administrator. If a decision of the Zoning Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment per the guidelines set forth in Section 1106.

Section 1001.4 Inspections. The Zoning Administrator is authorized to inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and with the terms of the approval. In exercising this power, the Zoning Administrator is authorized to enter any premises within the planning and development regulation jurisdiction of the Town of Granite Falls at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials, provided that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

Section 1002. Zoning Permit Required. No building, sign or other structure shall be erected, moved, extended or enlarged, or structurally altered, nor shall any excavation or filling of any lot for the construction of any building be commenced until the Zoning Administrator has issued a Zoning Permit for such work. This shall include all forms of development as defined in G.S. §160D-102(12).

Additionally, a Zoning Permit shall be required prior to occupancy or use of a building hereafter erected, altered or moved and for any change of use to a building or land.

Every person obtaining a Zoning Permit hereunder shall pay a fee as provided in a schedule of fees to be adopted by the Town Council.

Section 1003. Application for Zoning Permit. Each application to the Zoning Administrator for a Zoning Permit shall be accompanied by a site plan showing:

- The actual dimensions of the lot to be built upon,
- The size of the building to be erected,
- The location of the building on the lot,
- The location of existing structures on the lot, if any,
- The number of dwelling units the building is designed to accommodate,
- The approximate setback lines of buildings on adjoining lots,
- The intended use of the property,
- A site plan as required by Section 711,
- Such other information as may be essential for determining whether the provisions of this Chapter are being observed.

All applications made under this Chapter, for any development approval, shall be filed with the Zoning Administrator, unless otherwise noted, on a form prescribed by the Town and along with any requisite fees as set forth in the most current fee schedule.

The Zoning Administrator shall determine whether any initial application required by this Chapter is complete. If the Zoning Administrator determines that the application is not complete, then he or she shall notify the applicant of any deficiencies and shall take no further steps to process the application until the applicant remedies the deficiencies.

Section 1004. Expiration of Zoning Permit. Any Zoning Permit issued shall expire and be void unless the work authorized by it shall have been substantially commenced within one (1) year of its date of issue, or if the work authorized by it is suspended or abandoned for a period of one (1) year. Written notice thereof shall be given to the persons affected, including notice that further work as described in the expired permit shall not proceed unless and until another Zoning Permit has been obtained.

Section 1005. Special Use Permits. All applications for a Special Use Permit shall be submitted to the Zoning Administrator, reviewed, and acted upon as described in Article XI, Section 1107 of this Chapter.

Section 1006. Vested Rights.

1006.1 General Procedures. Pursuant to G.S. §160D-108 and notwithstanding any other provision or amendment, a landowner may apply for approval of a Site-Specific Vesting Plan as defined in the statute that shall entitle said landowner to develop property in accordance with the previously approved plan.

1006.2 Review and Approval. Following a review and recommendation by the Planning Board, the Town Council shall determine whether or not to grant or establish a vested right. The Town Council may not require the landowner to waive his vested right as a condition of development approval. The Town Council may approve the vested rights for a period greater than two (2) years only where it is found that due to (i) the sizing and phasing of the development; or (ii) the level of investment; or (iii) the need for the development; or (iv) economic cycles; or (v) market conditions, building permits for all phases of the development cannot be secured within two

years, provided that the total period does not exceed five (5) years from the date of plan approval of the site (except for the specified exceptions under G.S. §160D-108(f)).

1006.3 Effect of Approval of Vesting. Town Council approval of a Site-Specific Vesting Plan shall be in effect for a period of two (2) to five (5) years, as approved, and the calculation of time shall be from the date of approval. Multi-phase developments of at least 25 acres shall be vested for a period of up to seven (7) years, except for the special exceptions under G.S. §160D-108(f).

A vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the approved Site-Specific Vesting Plan. Failure to abide by the terms of conditions placed upon such approval shall result in the forfeiture of the previously granted or established vested right.

A vested right, once established, shall preclude any zoning action by the Town which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property in accordance with the approved Site-Specific Development Plan except under the following conditions where such rights are terminated and revoked:

1. The affected landowner provides written consent to the Town of his desire to terminate the vested right; or
2. The Town determines after having advertised and held an Evidentiary Hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as contemplated in the Site-Specific Vesting Plan; or
3. Compensation is made by the Town to the landowner for all costs, expenses and other losses incurred including, but not limited to, all fees paid in consideration of financing and all architectural, planning, marketing, legal and any other consultant's fees incurred after approval together with interest thereon at the legal rate until paid; or
4. The Town determines, after having advertised and held an Evidentiary Hearing, that the landowner or their representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval of the plan; or
5. Upon the enactment of a State or Federal law or regulations which precludes development as shown in the plan. In such case the Town may, after having advertised and conducted an Evidentiary Hearing, modify the affected provisions upon a finding that this change in State or Federal law has a fundamental effect on the plan.

Once a vested right is granted to a particular plan, nothing in this section shall preclude the Town from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are consistent with the original approval.

The establishment of a vested right on a piece of property for a site-specific development plan shall not preclude the Town from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Chapter.

1006.4 Revocation or Expiration of a Vested Right. The vested right, resulting from the approval of a Site-Specific Development Plan, may be revoked by the Town Council if it determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of this Code.

As prescribed under the provisions of G.S.160D-108, the vested right shall otherwise expire at the end of the approval period established by the Town Council. A building permit issued pursuant to G.S. 160D-403 may not expire or be revoked because of the running of time on a piece of property while a plan has been approved and the vested right period has not otherwise expired.

1006.5 Voluntary Annexation. A petition for annexation filed with the Town under G.S. §160A-31 or G.S. §160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. §160D-108. A statement that declares that no zoning vested right has been established under G.S. §160D-108 or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

1006.6 Limitations. Nothing in this Chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. §160D-108 or common law.

1006.7 Repeal. In the event that G.S. §160D-108 is repealed, this section shall be deemed repealed and the provisions hereof no longer effective.

Section 1007. Permit Choice. If a development regulation changes after a complete application for a development approval is submitted, the applicant may choose which regulation to adhere to pursuant to G.S. §160-108(b).

## ARTICLE XI

### BOARD OF ADJUSTMENT & PLANNING BOARD

Section 1101. Establishment of Board of Adjustment. A Board of Adjustment is hereby created as provided in G.S. §160D-302 of the General Statutes of North Carolina. Said Board shall consist of seven (7) members and at least two (2) alternate members as described below; five members and all alternate members shall be residents of the Town of Granite Falls, and the other two members shall be appointed as provided in §160D-307 of the General Statutes of North Carolina for the overlapping terms of three years. Initial appointment shall be as follows: One (1) member for a term of three (3) years, four (4) members for a term of two (2) years, and four (4) members for a term of one (1) year.

1101.1 Board Member Terms. Following the initial establishment of the Board of Adjustment, members shall be appointed to three (3) year overlapping terms. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.

1101.2 Alternate Members. The Town Council of the Town of Granite Falls may, in its discretion, appoint a minimum of two alternate members to serve on the Board of Adjustment in the absence, for any cause, of any regular member. Such alternate members shall be appointed in the same manner as regular members and at the regular times for appointment. Such alternate members, while attending any regular or special meeting of the Board and serving in the absence of any regular member, shall have and exercise all the powers and duties of such regular member so absent. Alternate members shall be residents of the Town of Granite Falls.

Section 1102. Decisions of the Board of Adjustment. The concurring vote of four/fifths of the entire membership of the Board shall be necessary to grant a variance from any development regulation. A majority of the members will be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. Vacant seats and members recused from voting shall not be considered in calculation of the four/fifths majority (G.S. §160D-406). Alternate members may serve in place of disqualified regular members on individual matters (G.S. §160D-406).

On all appeals, applications and other matters brought before the Board of Adjustment, said Board shall fix a reasonable time for an evidentiary hearing and give due notice thereof to the parties, and shall decide the same within a reasonable time.

The Board shall inform all parties involved of its decision in writing, stating the reasons supporting the decision. The written decision shall be signed by the Board of Adjustment Chair and is effective upon filing with the Zoning Administrator, serving in their role as Secretary to the Board of Adjustment. The written decision shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant and property owner prior to the date the decision becomes effective.

Section 1103. Duties of the Zoning Administrator, Board of Adjustment, Courts and Town Council on Matters of Appeal. It is the intention of this Chapter that all questions arising in connection with the enforcement of this Chapter shall be presented to the Zoning Administrator and that such question shall be presented to the Board of Adjustment only on appeal from the Zoning Administrator and that from the decision of the Board of Adjustment recourse shall be had to courts as prescribed by law. It is further the intention of this Chapter that the duties of the Granite Falls Town Council in connection with this Chapter shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof.

Section 1104. Proceedings of the Board of Adjustment. The Board of Adjustment shall elect a Chair and Vice-Chair from its members, each of whom shall serve for one year or until re-elected or until their successors are elected and qualify. The Board shall appoint a secretary who may be a municipal officer, an employee of the Town or a member of the Board of Adjustment. The Board shall adopt rules of procedure in accordance with the provisions of this Ordinance and of §160D-308, of the General Statutes of North Carolina. Meetings of the Board shall be held at the call of the Chair and at such other times as the Board may determine. The Chair, or in his absence the Vice-Chair, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public. The secretary shall not have a vote unless he or she is also a regular or alternate member of the Board.

Section 1105. Powers and Duties of the Board of Adjustment

- Appeals of Decision of Zoning Administrator. To hear and decide appeals where is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Chapter.
- Special Uses; Conditions Governing Application. To grant in particular cases and subject to appropriate conditions and safeguards, permits for Special Uses as authorized by this Chapter and set forth as Special Uses under the various use districts.
- Variances. To authorize upon appeal in specific cases such variances from the terms of this Chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship.
- Evidentiary Hearings. The Board shall be authorized to conduct evidentiary hearings in the manner prescribed in G.S. §160D-406.

#### Section 1106. Appeals of Decision of Zoning Administrator

- 1106.1 Decision of Zoning Administrator. An appeal from the decision of the Zoning Administrator may be taken by any person aggrieved or affected by such decision, or by a person with standing under G.S. §160D-1402, to the Board of Adjustment. The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
- 1106.2 Notice of Decision. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words “Zoning Decision” or “Subdivision Decision” in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property for at least 10 days. Posting of the signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Posting of signs is not required.
- 1106.3 Notice of Hearing. Notice shall be mailed to adjacent property owners, at least ten (10) days, but not more than twenty-five (25) days, prior to the public hearing.
- 1106.4 Timeframe for Appeal. Such appeal shall be taken within thirty (30) days by filing with the Town Clerk a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Zoning Administrator shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

- 1106.5 Stay of Proceedings. An appeal stays all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Adjustment after the notice of appeal shall have been filed that, by reason of facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record an application, on notice to the Zoning Administrator and on due cause shown.
- 1106.6 Expedited Hearing. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with this Chapter shall not stay the further review of an application for permits or permissions to use such property. In these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.
- 1106.7 Hearing. The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing to another date.
- 1106.8 Decision of the Board of Adjustment. In exercising the above-mentioned powers, the Board of Adjustment may reverse or affirm, wholly or in part, or may modify any order, requirements, decision or determination and to that end shall have the powers of the administrative official from whom the appeal is taken.

#### Section 1107. Special Use Permits

- 1107.1 Applicability. Special uses within each general use district are uses that may be appropriate in a particular district, but because of the increased potential for incompatibility with adjacent uses requires individual review in accordance with the principles, conditions, safeguards and procedures specified herein. Reasonable and appropriate conditions and safeguards may be imposed upon these permits.
- 1107.2 Application. A written application for a Special Use Permit is submitted to the Zoning Administrator for review indicating the section of this Chapter under which the Special Use Permit is sought prior to submission to the Board of Adjustment.
- 1107.3 Notice of Hearing. An evidentiary hearing shall be held. Notice of such evidentiary hearing shall be posted on the property for which the Special Use Permit is sought and mailed to adjacent property owners, both at least ten (10) days, but not more than twenty-five (25) days, prior to the hearing.
- 1107.4 Findings of Fact. No Special Use Permit may be issued unless the following findings are made concerning the application:

- A. That the application will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved.
- B. That the application meets all required specifications and conforms to the standards and practices of sound land use planning and any other applicable development regulation.
- C. That the application will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.
- D. That the application will not adversely affect the adopted plans and policies of the Town.

1107.5 Additional Conditions. In granting approval for a Special Use Permit, the Board of Adjustment may impose reasonable conditions which serve to assure that the required findings are upheld. Such conditions may include, but are not limited to, right-of-way or easement dedication; recreation, open space or buffer provision; limitation in scale, intensity or hours of operation; and other reasonable restrictions as allowed by State statute.

Prior to a decision by the Board of Adjustment, the applicant shall consent to these conditions or decline consent to the conditions. If the applicant consents to the conditions, their signature shall be required on the official written decision of the Board.

1107.6 Decision of the Board. If the Board of Adjustment can make the findings of fact determinations noted in Section 1107.4, and the applicant has consented to any additional conditions, then a Special Use Permit shall be granted. The Special Use Permit and additional conditions, if applicable, shall run with the land and shall be binding on the original applicant as well as any successors, assigns and heirs.

If the Board of Adjustment votes to deny an application, there may be no subsequent application for the same or similar use submitted by any party for any part of the subject property until twelve (12) months have elapsed from the date of denial.

1107.7 Compliance with other Codes. Granting a Special Use Permit does not exempt the applicant from complying with all of the requirements of building codes or other development regulations.

1107.8 Revocation. If at any time after a Special Use Permit has been issued, the Board of Adjustment finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a Special Use Permit, the permit shall be terminated and the operation of such use discontinued. Revocation shall follow the same process required for issuance. If a Special Use Permit is terminated for any reason it may be reinstated only after submission of a new application and evidentiary hearing.



- 1107.9 Expiration. In any case where a Special Use Permit has not been exercised within the time limit set by the Board of Adjustment, or within one (1) year if no specific time limit has been set, then without further action, the permit shall be null and void. "Exercised" as set forth in this subsection shall mean that binding contracts for the construction of the main building shall have been let; or in the absence of contracts that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewerage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions set forth in the permit. The Special Use Permit shall become void if a use or activity ceases for a period of twelve (12) consecutive months. If a Special Use Permit is determined by the Zoning Administrator to be void, such determination shall be transmitted in writing to the applicant.
- 1107.10 Careful record. A careful record of such application and plat, together with a record of the action taken thereon, shall be kept in the office of the Zoning Administrator.
- 1107.11 Modifications To Approved Special Use Permits. Modifications to a Special Use Permit must follow the same process as for an initial approval excepting those that can be determined to be a minor modification. A minor modification may be approved by the Zoning Administrator provided that such changes are minor in nature and do not include any of the following:
- A. A change in the boundaries of the approved site;
  - B. A change in the approved use;
  - C. An increase in overall density, to include any increases in dwelling units or structures and any increases in overall impervious surface area;
  - D. Substantial change in the location of principal or accessory structures;
  - E. Substantial changes in the amount or location of required landscaping or buffering/screening; and
  - F. Substantial changes in pedestrian or vehicular access, parking or circulation.

Section 1108. Variances

- 1108.1 When unnecessary hardships would result from carrying out the strict letter of the ordinance, the Board of Adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:
1. Unnecessary hardships would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  2. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships

resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose and intent of this Chapter, such that public safety is secured, and substantial justice is achieved.

1108.2 An Evidentiary Hearing shall be held. Notice of such hearing shall be posted on the property for which the variance is sought and mailed to adjacent property owners, both at least ten (10) days, but not more than twenty-five (25) days, prior to the evidentiary hearing. At the hearing, any party may appear in person or by agent or attorney.

1108.3 The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

1108.4 In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Chapter and punishable under Section 1305.

1108.5 Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Chapter in the district involved, or any use expressly or by implication prohibited by the terms of this Chapter in said district.

#### Section 1109. Planning Board

1109.1 Establishment of Planning Board

The Planning Board is established and composed pursuant to G.S. §160D-301.

1109.2 Composition of Planning Board

Residents of both the Town's corporate limits and the ETJ shall serve on the Planning Board, per G.S. §160D-307. The ratio of representation on the Board shall be proportional to the total population of the corporate limits and the ETJ. At least one (1) resident of the ETJ shall serve on the Planning Board. The populations shall be taken from the most recent decennial census.

1109.3 Powers and Duties of Planning Board. The Town of Granite Falls Planning Board shall perform the following duties and have the following responsibilities:

- A. Advise the Town Council concerning the implementation of plans including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. §160D-604.
- B. Prepare, review, maintain, monitor and periodically update and recommend to the Town Council a Land Use Plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping and analysis.
- C. Facilitate and coordinate citizen engagement and participation in the planning process.
- D. Develop and recommend policies, ordinances, development regulations, administrative procedures and other means for carrying out plans in a coordinated and efficient manner.
- E. Exercise any functions in the administration and enforcement of various means for carrying out plans as the Town Council may direct.
- F. Perform any other related duties that the Town Council may direct.

Section 1110. Preservation of the Public Trust.

1110.1 Oath of Office. Pursuant to G.S. §160D-309, all members appointed to boards shall take the oath of office as required.

1110.2 Conflicts of Interest. Pursuant to G.S. §160D-109, no elected or appointed board member or administrative staff shall make a final decision as required by this Chapter if the outcome of that decision would have a direct, substantial and readily identifiable financial impacts on themselves or if the applicant or other person subject to that decision is a person with whom the board member or staff member has a close familial, business or other associational relationship.

## ARTICLE XII

### AMENDMENTS AND CHANGES

Section 1201. Procedure for Amendments. A petition for Zoning Amendment may be initiated by the Town of Granite Falls, the Planning Board, any department or agency of the Town of Granite Falls, the owner of any property within the zoning jurisdiction of the Town, or any interested citizen who can show just cause for an amendment. Applications submitted by individual property owners or interested citizens who are not acting in an official capacity for the Town of Granite Falls shall comply with the following procedural requirements.

1201.1 Application Submission. Any application for a Zoning Amendment shall be filed with the Zoning Administrator at least twenty (20) days prior to the date on which it is to be introduced to the Planning Board. The Zoning Administrator shall be responsible for presenting the application to the Planning Board. Each petition for an amendment shall be accompanied by a fee, the amount of which shall be set forth in the most current Fee Schedule, to help defray the costs of advertising the legislative hearing required by §160D-601 of the North Carolina General Statutes.

Each application involving a change to the Zoning Map shall be signed, be in duplicate, and shall contain at least the following information:

- The applicant's name in full, applicant's address, address or description of the property to be rezoned
- The applicant's interest in the property and the type of rezoning requested
- An accurate diagram of the property proposed for rezoning, showing:
  - (a) All property lines with dimensions, including north arrow;
  - (b) Adjoining streets with rights-of-way and paving widths;
  - (c) The location of all structures, existing and proposed, and the use of the land;
  - (d) Zoning classification of all abutting zoning districts;
  - (e) Names and addresses of all adjoining property owners.
- A statement regarding the changing conditions, if any, in the area or in the Town generally that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.

1201.2 Planning Board Consideration. All proposed Zoning Amendments shall be submitted to the Granite Falls Planning Board for review and recommendation. The Planning Board shall have thirty-one (31) days from the time the proposed amendment was first considered by the Planning Board to submit its report. If the Planning Board fails to submit a report within the above period, the Town Council may act on the proposed amendment without the Planning Board report. The Planning Board shall also prepare a written Statement of Consistency with the Land Use Plan for any proposed amendment which shall be presented to the Town Council for their consideration.

1201.3 Town Council Consideration. Before adopting or amending this development regulation, the Granite Falls Town Council shall hold a legislative hearing on it. A notice of the legislative hearing shall be given once a week for two consecutive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearings (G.S. §160D-601). The property shall also be posted for all proposed Zoning Map Amendments prior to the public hearing (G.S. §160D-602c). Mailed noticed shall also be provided to abutting property owners for all proposed Zoning Map Amendments per G.S. §160D-602a. Any petition for Zoning Amendment may be withdrawn at any time by written notice to the Town Clerk.

1201.4 Town Council Decision. The Granite Falls Town Council shall prepare a written Plan Consistency Statement following the adoption or denial of any proposed Zoning Amendment that addresses the consistency of the decision with adopted land use plans (G.S. §160D-605). If the Town Council approves a Zoning Map Amendment which is not consistent with the adopted Future Land Use Map, there must be a notation placed on the applicable map(s) than an amendment inconsistent with the map has been duly adopted, and the map(s) are deemed amended.

As prescribed in G.S. §160D-605(b), the Town Council shall prepare a Statement of Reasonableness in connection with its legislative decision on a Zoning Map Amendment. Several factors may be considered in preparing this statement including, but not limited to, the following:

- a) the size, physical conditions and other attributes of the area proposed to be rezoned;
- b) the benefits and detriments to the landowners, the neighbors and the surrounding community;
- c) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;
- d) why the action taken is in the public interest; and
- e) any changed condition warranting the amendment.

## Section 1202. Conditional Zoning Procedures

### 1202.1 Applicability.

- A. Conditional Zoning (CZ) District review shall occur in accordance with the provisions of this section.
- B. The Town Council shall consider Conditional Zoning Districts upon submittal of a completed application for an eligible property.
- C. A Conditional Zoning District is not appropriate for developments that could be substantially achieved through a conventional zoning district and utilizing traditional subdivision regulations.
- D. An application for a Conditional Zoning District shall include a minimum of five (5) contiguous acres, unless the subject property is adjacent to property that lies within a parallel conventional district.
- E. Only Permitted Uses in the parallel conventional district are eligible to be considered in a corresponding CZ district, as modified by any conditions of approval.
- F. Any proposed development within a CZ district must meet all requirements of the corresponding conventional district, as modified by any conditions of approval.

1202.2 Initiation of Amendment. An owner of land within the planning and development regulation jurisdiction of the Town may petition the Town Council to establish a Conditional Zoning District.

1202.3 Application Requirements. Concurrent with a request for establishment of a Conditional Zoning District, an applicant shall submit a site plan to specify the development and maintenance of the land within the proposed district. The site plan shall be prepared by a professional surveyor, landscape architect, engineer or architect properly licensed and in good standing in North Carolina.

The application fee, as set forth in the most current Town of Granite Falls Fee Schedule, shall be submitted at this time.

1202.4 Zoning Administrator Review. The Zoning Administrator shall review the submitted application and shall require any additional information as may be needed to process the request. Further, the Zoning Administrator shall coordinate with other Town departments, if applicable, to review the application. Following this review, the Zoning Administrator shall prepare a staff report that addresses relevant criteria for submission to the Planning Board and Town Council.

1202.5 Planning Board Review. The Planning Board shall make a recommendation on the application to the Town Council. The Planning Board's recommendation shall include a written Statement of Consistency with the adopted Land Use Plan and any conditions that the Board has determined to be necessary for conformance with the plan or to address impacts reasonably expected to be generated by development or use of the site.

1202.6 Town Council Consideration. The Zoning Administrator shall present the application and the recommendation of the Planning Board to the Town Council. The Town Council shall call for a Legislative Hearing on the matter to be conducted in the manner specified in Section 1201.

The Town Council shall approve, approve with conditions or disapprove the Conditional Zoning request. Any conditions of approval must be signed (or declined) by the applicant prior to the Town Council rendering a decision.

Concurrent with adopting, denying or remanding any Conditional Zoning District, the Town Council shall adopt a written statement as specified in Section 1201.4.

1202.7 Conditional Zoning District Approval Criteria. In connection with its legislative decision on a Conditional Zoning District request, the Town Council may consider factors including, but not limited to, the following:

- A. Consistency with the adopted plans and policies of the Town;
- B. Suitability of the subject property for uses permitted by the current district versus the proposed CZ district;
- C. Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town;
- D. A determination of sufficient capacity of public facilities and services including, but not limited to, schools, roads, recreation facilities, wastewater treatment, public water supply, electric service and stormwater drainage facilities to meet the needs of the proposed CZ district;
- E. That there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare; and
- F. That no single property owner, or small group of property owners, will benefit materially from the change to the detriment of the general public.

1202.8 Amendment Procedures for Approved Conditional Zoning Districts.

1. Except as provided in subsection (B) below, changes to an approved Conditional Zoning District or to the conditions attached to it shall be treated the same as amendments to these regulations or to the Zoning Map and shall be processed in accordance with the provisions of this Chapter.

Due to the Chapter 160D implementation process, a property may have previously been in a Conditional Use District and is now in a Conditional Zoning District. In order to develop the property, a development plan must be submitted and processed as an amendment in accordance with the provisions of this Chapter.

2. Administrative Amendment Process

1. Application. Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, to the Zoning Administrator detailing the requested change. Upon request, the applicant must provide any additional information requested.
2. Authority to Approve. The Zoning Administrator shall have the authority to approve an administrative amendment to an existing CZ approval. The standard for approving or denying such amendment shall be that the change does not significantly alter the master plan or its conditions and that the change does not have a significant impact on abutting properties. Significant changes that cannot be considered through an administrative amendment include, but are not limited to, the following:
  - a. Increasing the number of buildings.
  - b. Increasing the number of dwelling units.
  - c. Modifications to the location of approved points of access.
  - d. Reduction in the area or intensity of landscaping or screening/buffers.
  - e. Increasing the overall impervious surface area.
  - f. Reducing any required open space.
  - g. Increasing the total number of subdivided lots.
  - h. Reducing the required parking spaces below the minimum standards.
3. The Zoning Administrator shall always have the discretion to decline to exercise this authority if it is determined that a legislative hearing would be more appropriate. If the Zoning Administrator declines to exercise this authority, the applicant must file a rezoning petition and seek approval in accordance with the procedures of this section.

1202.9 Expiration of Conditional Zoning Approval. The intent of a Conditional Zoning is to provide a procedure for specific development proposals and as such, it is intended that all property rezoned to a CZ District possess firm plans to develop. Therefore, within two (2) years of the date of approval, the Planning Board shall review progress made to develop in accordance with approved plans. If it is determined that active efforts to so develop are not reasonably proceeding, it shall be the responsibility of the property owner or designated representative to justify the delay in development.

If the Planning Board determines that such delay is unjustified, it shall forward a report of its findings to the Town Council, which may recommend that proceedings to rezone the subject property to its former designation be initiated.

1202.10 Revocation of Conditional Zoning Approval. If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant fails to develop the property according to the approved conditions, the approval shall become null and void and proceedings shall be initiated to rezone the property to its former designation.

Section 1203. Down-Zoning. No amendment to these zoning regulations or the zoning map that down-zones property shall be initiated or enforced without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town. For purposes of this section, down-zoning shall mean an amendment that affects an area of land in one of the following ways:

- A. By decreasing the development density of the land to be less dense than was allowed previously.
- B. By reducing the Permitted Uses of the land to fewer uses than were allowed previously.

Section 1204. Citizen Comments. Written statements may be submitted to the Town Council concerning a proposed zoning text or map amendment by any resident or property owner. This written statement must be delivered to the Clerk to The Board at least two (2) business days prior to the proposed vote on the amendment (G.S. §160D-603).

Section 1205. Procedure for Resubmission of a Proposed Amendment. Any proposed amendment to this Chapter having complied with the requirements of this section and having been denied by the Town Council may be resubmitted to the Planning Board only after a waiting period of no less than one (1) year from the date of denial. A fee (see current fee schedule) to help defray the costs of advertising the public hearing shall be paid and all requirements of this section shall be complied with.

## ARTICLE XIII

### LEGAL PROVISIONS

Section 1301. Interpretation, Purpose and Conflict. In its interpretation and application the provisions of this development regulation shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not the intention of this Chapter to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that where this development regulation imposes a greater restriction upon the use of buildings or premises or upon the height of building, or requires larger open spaces than are imposed or required by other development regulations, rules, or by easements, covenants, or agreements, the provisions of this Chapter shall govern, provided that nothing in this development regulation shall be construed to amend or repeal any other existing development regulation of the Town.

Section 1302. Town Attorney May Prevent Violation. If any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any structure or land is used in violation of



this Chapter, the Zoning Administrator shall inform the Town Attorney. In addition to other remedies, the Town Attorney may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or restrain, correct or abate such violation, to prevent the occupancy of such structure or land or to prevent any illegal act, conduct, business or use in or about the premises.

Section 1303. Reenactment and Repeal of Existing Zoning Ordinance. This Ordinance in part carries forward by reenactment some of the provisions of the Zoning Ordinance of Granite Falls, adopted by the Board of Commissioners on March 8, 1965, as amended, and it is not the intention to repeal but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have accrued hereunder are preserved and may be enforced. All provisions of the Zoning Ordinance of the Town of Granite Falls enacted on March 8, 1965, as amended, which are not reenacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any zoning Ordinance heretofore in effect, which are not pending in any of the courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance but shall be prosecuted to their finality the same as if this Ordinance has not been adopted; any and all violations of the existing Zoning Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted, and nothing in this Ordinance shall be construed as to abandon, abate or dismiss any litigation or prosecution now pending, and/or which may heretofore have been instituted or prosecuted.

Section 1304. Severability. Should any section or provisions of this Chapter be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Chapter as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 1305. Penalties. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Chapter, shall be subject to a fine of fifty dollars (\$50.00) in accordance with G.S. §160A-175. Each day that a violation continues to exist shall constitute a separate offense.

Section 1306. Statute of Limitations. In accordance with G.S. §160D-1405, a cause of action as to the validity of this Chapter, or amendment thereto, shall accrue upon the adoption of this Chapter or amendment thereto, and shall be brought within the time period specified therein.

*(Pages 163 Through 169 Are Reserved For Future Use)*