

## ARTICLE 4

### ADMINISTRATIVE PROCEDURE

#### Section 4-1                      Town Council

##### **4-1.1            Duties**

The Town Council shall have the following duties in relation to the Zoning Ordinance:

- (a) Adopt and repeal the Zoning Ordinance;
- (b) Amend the Zoning Ordinance; and
- (c) Authorize conditional uses as specified in Article 12.

##### **4-1.2            Amendment Procedure**

- (a) Submission of Application: Any person seeking a zoning amendment shall initially submit a request to the enforcement officer at least fifteen (15) days prior to the regular meeting of the planning board. After review and comments by the planning board the request shall be submitted to Town Council for action.
- (b) Newspaper Notice: Before action on the amendment, the Town Council shall hold a public hearing. A notice of the hearing shall be given once a week for two (2) consecutive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing.
- (c) First-Class Mail Notice: When property is rezoned, the parcel owner and the adjoining parcel owners, as shown on the county tax listing, shall be notified by first-class mail. The person giving notice shall certify to the Town Council that the property owners have been notified. This certificate is conclusive in the absence of fraud.
- (d) Posting Property: The property shall also be posted at least one week before the public hearing.
- (e) 20 Per Cent Protest Petition: If a protest petition against a proposed amendment is submitted, signed by the owners of twenty (20) percent or more, either of the area of the lots included in a proposed change or of those immediately adjacent either in the rear or on either side, extending one hundred (100) feet, or of those opposite, extending one hundred (100) feet from the street frontage of the opposite lots, three-fourths (3/4) of all the members of the Town Council must vote in favor of the proposal before it shall become effective.

- (f) Protest Petition Requirements: No protest against any change in or amendment to a zoning ordinance or map shall be valid or effective unless it is in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Zoning Enforcement Officer in sufficient time to allow the community at least two (2) normal work days, excluding Saturdays, Sundays, and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.
- (g) Appeals: The Town Council shall not hear any appeals from the Zoning Enforcement Officer or the Board of Adjustment. When the Town Council, as authorized by Article 4 and specified in the various zoning districts in Article 6, shall review and decide conditional uses, an appeal from its decision shall be taken to the North Carolina Superior Court within thirty (30) days.

**4-1.5 Procedure to be Used in Processing Conditional Use Permits Authorized by the Town Council.**

- (a) Submission of Application: Any person seeking a conditional use permit shall submit to the Zoning Enforcement Officer an application at least fifteen (15) days prior to the regular meeting of the Town Council.
- (b) Public Notice: The Town shall post on the property a notice of a public hearing concerning the application at least ten (10) days prior to the hearing. This sign shall be removed within thirty (30) days after the meeting. In addition, a notice advertising the event shall be placed in a local newspaper once at least ten (10) days prior to the date of the hearing.
- (c) Action by the Town Council: After conducting a public hearing on the application, the Town Council shall approve, approve conditionally, or disapprove the request. The Council shall follow the guidelines for conditional use permits as specified in Article 12.

**Section 4-2 Planning Board**

**4-2.1 Organization and Administrative Procedure**

The Planning Board shall operate under the rules established in its by-laws.

**4-2.2 Duties**

The Planning Board shall have the following duties in relation to the Zoning Ordinance:

- (a) Certify the original ordinance to the Town Council;
- (b) Review and comment on all amendments; and

- (c) Review and comment on all conditional uses approved by the governing body as specified in Article 12 of this ordinance;
- (d) Review and take action on special exceptions approved by the board of adjustment as specified in Article 12 of this ordinance.

### **Section 4-3                      Board of Adjustment**

#### **4-3.1                      Establishment of the Board**

A Board of Adjustment shall be established consisting of seven (7) members. Four (4) members shall be residents of the Town and be appointed by the Town Council. The remaining three (3) members shall come from the one (1) mile extraterritorial planning jurisdiction (ETJ) and be appointed by the County Board of Commissioners.

#### **4-3.2                      All Members Have Equal Authority**

Extraterritorial members, although not residents of the Town, shall have equal rights, privileges, and duties as the members who live inside the town limits.

#### **4-3.3                      Organization and Administrative Procedure**

The Board of Adjustment shall operate under the organizational and administrative procedures established in its by-laws and the State of North Carolina.

#### **4-3.4                      Powers and Duties**

##### **(a)      Appeal**

1.            Any person aggrieved by any decision, order, requirement, or determination by the Zoning Enforcement Officer in the administration of this ordinance may appeal to the Board of Adjustment. An appeal shall specify the reasons for the appeal and be submitted within a reasonable time. The Zoning Enforcement Officer shall transmit to the Board all papers and other records of the case.
2.            An appeal stays all proceedings unless the Zoning Enforcement Officer certifies that a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order granted by the Board of Adjustment or by a court. The Board of Adjustment shall fix a reasonable time to hear and decide the appeal. At the hearing, any party may appear in person, by agent, or by attorney.
3.            Any appeal from the decision of the Board of Adjustment shall be taken to the Superior Court within thirty (30) days.

4. The Board of Adjustment shall refuse to hear any case it has previously denied if it finds that there has been no substantial change in the conditions or circumstances.

(b) Special Exception:

To hear and decide applications for special exceptions as specified in Article 12.

(c) Variance:

To authorize, in specific cases, variances from the terms of this ordinance which will not be contrary to the public interest. Before a variance is granted, the following conditions must exist:

1. It shall be known that there are extraordinary and exceptional conditions pertaining to the particular piece of property because of its size, shape, or topography that are not applicable to other lands or structures in the same districts.
2. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district where the property is located.
3. The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
4. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district where the property is located.
5. The special circumstances are not the result of the actions of the applicant.
6. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure.
7. The variance is not a request to permit a use of land, buildings, or structures which is not permitted by right, by special exception or conditional use in the district involved.

#### **4-3.5 Four-fifths (4/5) Rule**

The concurring vote of four-fifths (4/5) of the members of the Board of Adjustment shall be necessary:

- (a) To reverse any order, requirement, decision, or determination of the Enforcement Officer;
- (b) To decide in favor of the applicant any matter upon which it is required to pass under this ordinance; or
- (c) To effect any variance authorized by this ordinance.

**4-3.6 Procedure to be Used in Processing Appeals, Variances, and Special Exception Permits Authorized by The Board of Adjustment**

- (a) Submission of Application: Any request for an appeal, variance or special exception permit shall be made in writing at least fifteen (15) days prior to the established meeting date of the Board of Adjustment. The request shall be on a form provided by the Zoning Enforcement Officer.
- (b) Public Notice: The Town shall post on the property a notice of a public hearing concerning the application at least ten (10) days prior to the hearing. This sign shall be removed within thirty (30) days after the meeting. In addition, a notice advertising the event shall be placed in a local newspaper once at least ten (10) days prior to the date of the hearing.
- (c) Action by the Board of Adjustment: After conducting the public hearing, the Board shall approve, approve conditionally, or disapprove the request. The Board of Adjustment shall follow the guidelines for appeals and variances as specified in Article 4 Administrative Procedure (Subsection 4-3.6) and in Article 12, Conditional Uses/ Special Exceptions.

**Section 4-4 Zoning Enforcement Program**

**4-4.1 Zoning Enforcement Officer**

The Town Manager may assume the duties of the Zoning Enforcement Officer or appoint someone to the position. The Zoning Enforcement Officer shall enforce and administer the provisions of this ordinance. If a ruling of the Zoning Enforcement Officer is questioned, the aggrieved party or parties may appeal the ruling to the Board of Adjustment.

**4-4.2 Building and Zoning Permit Required**

No building, sign, or other structure shall be erected, moved, extended, enlarged, or structurally altered, nor shall any excavation or filling of any lot for the construction of any building be commenced until the Zoning Enforcement Officer has issued a zoning permit and the Yadkin County Inspections Department has issued a building permit.

#### **4-4.3 Applications for a Zoning Permit**

Each application to the Zoning Enforcement Officer for a zoning permit shall be accompanied by plans in duplicate showing the following:

- (a) The actual dimensions of the lot to be built upon;
- (b) The size of the building to be erected;
- (c) The location of the building on the lot;
- (d) The location of existing structures on the lot, if any;
- (e) The number of dwelling units the building is designed to accommodate;
- (f) The approximate setback lines of buildings on adjoining lots;
- (g) The intended use of the property; and
- (h) Any other information that may be essential for determining whether the provisions of this ordinance are being observed.