

CHAPTER 13: TEXT AND MAP AMENDMENTS

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Chapter 13: Text and Map Amendments

Section 13.1 Purpose and Scope: The purpose and scope of this Chapter is to provide procedures for the amendment of the text of this Ordinance (Text Amendment) or for the amendment of the zoning classifications of property appearing on the Official Map of Zoning Districts (Map Amendment). Such amendments may be adopted when the Council concludes they are (1) necessary or appropriate in light of changed conditions or changes in public policy or; (2) advance the general welfare of the Village or; (3) are in furtherance of the purpose statements set forth in Chapter 1 of this Ordinance.

Section 13.2 Text Amendments: The following procedures apply to text amendments:

Section 13.2.1 Initiation: Text Amendment changes (additions, deletions, modifications) may be initiated by Village Council, Boards or Staff or by the owner of a legal or equitable interest in land located in the Village or its Extraterritorial Jurisdiction (ETJ) including the holder of an option or contract to purchase such land, or the agent or lessee of such person.

Section 13.2.2 Application: An text amendment change application provided by the Administrator is required, except for Village Council, Boards or Staff, and shall contain or be accompanied by the following information:

- A. The name, mailing address, phone number and, if available, the email address of the applicant, and
- B. To the extent possible, a reference to the specific provisions of the Ordinance to be changed as well as the wording of the proposed change, and
- C. An explanation of the reasons for the requested change, and
- D. A statement regarding the consistency of the request with adopted Village plans and why the proposed amendment is reasonable and in the public interest, and
- E. Any other reasonable information requested by the Administrator, and
- F. The fee prescribed in the Village's Fee Schedule.

The Administrator shall determine if the submitted application is complete. If incomplete, the applicant shall be notified of any deficiencies and the Administrator shall take no further steps until the deficiencies are remedied.

The application may be withdrawn any time prior to a final decision being made by Village Council.

Section 13.2.3 Preliminary Council Review: The Village Council shall preliminarily review all requests and completed applications for text amendment changes and determine if the request should proceed with the preparation of a draft amendment by the Administrator or Village Attorney. If the determination is made to proceed, the resulting draft will be reviewed and accepted, modified, returned for further definition, or rejected by the Village Council.

Section 13.2.4 Planning and Zoning Board Review/Public Hearing Date: Upon Village Council acceptance of a text amendment draft, a public hearing date shall be established as outlined in

Section 13.3.6 of this Ordinance. The draft amendment will also be referred to the Planning and Zoning Board for review and recommendation. The Planning and Zoning Board shall have a maximum of thirty days from the date of referral to make a written recommendation, including a statement regarding the consistency of the draft with the adopted Village comprehensive plan and other adopted plans, including the map of zoning districts and the surrounding area. Such recommendation may include, but not be limited to the following:

- Adopt the amendment as written, or
- Adopt the amendment as revised by the Planning and Zoning Board, or
- Reject the amendment.

If no recommendation is made within the allotted time period, the draft shall be returned to Council prior to the established public hearing date.

Section 13.2.5 Written Citizen Comments: If any resident or property owner in the Village submits a written statement regarding a proposed amendment, modification or appeal to a zoning ordinance to the clerk to the Council at least two (2) business days prior to the proposed vote on such change, the clerk shall deliver such written statement to the Village Council. (3/14/18)

Section 13.2.6 Action following Public Hearing: The Village Council shall consider the recommendation of the Planning and Zoning Board, comments from the Public Hearing and any other information relating to the requested text amendment and take such action as it deems appropriate, including, but not limited to, the following:

- Adopt the amendment as written, or
- Adopt the amendment with revisions, or
- Return the amendment to Planning and Zoning for further study and consideration, or
- Set consideration of the amendment for the following Council meeting, or
- Reject the amendment.

Before a text amendment is adopted or rejected, the Village Council shall first adopt one of the following statements:

- A. A statement approving the amendment and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest; or
- B. A statement rejecting the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest; or
- C. A statement approving the zoning amendment and containing at least all of the following:
 1. A declaration that the approval is also deemed an amendment to the comprehensive plan. No other request or application is required to amend the comprehensive plan; and
 2. An explanation of the change in conditions the Village Council took into account in amending the zoning ordinance to meet the development needs of the Village; and
 3. Why the action is reasonable and in the public interest.

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The Administrator shall send by first class mail within five (5) working days, a written notification of the action taken by the Village Council to the applicant and any persons who previously requested, in writing, notification of such action. (3/14/18)

Section 13.3 Map Amendment: (Amended 3/11/15)

The following procedures apply to a map amendment (rezone):

Section 13.3.1 Initiation: A rezone of a General Use Zoning District (See Chapter 5, Section 5.2.1 of this Ordinance) appearing on the Official Map of Zoning Districts may be initiated by the Village Council or by the owner who has a legal or equitable interest in land located in the Village or its Extraterritorial Jurisdiction (ETJ) including the holder of an option or contract to purchase such land, or the agent or lessee of such person. When an agent files the application, the agent shall provide the Village with notarized documentation from the owner of the property authorizing the filing of the application.

A request for a rezone of a Class B Mobile Manufactured Home Overlay District may only be initiated by the written authorization of the owner(s) of all included property.

A request for a rezone to a Conditional Zoning (CD) District (See Chapter 5, Section 5.2.2) is as shown in Section 13.4.1 below.

Section 13.3.2 Contiguous/Noncontiguous Property: Property owned and located adjacent to either side, rear or directly across the street or public right-of-way to the requested map amendment property shall be deemed to be contiguous and may be included in one zoning reclassification request.

Noncontiguous property requires separate applications and fees.

Section 13.3.3 Application: A map amendment application provided by the Administrator is required and shall contain or be accompanied by the following information:

- A. The name, mailing and email address, and phone number of the applicant, and, if different, the owner(s) of all property included in the rezoning.
- B. A description of the property to be rezoned, by metes and bounds, survey, recorded plat, tax map and LRK numbers issued by the Moore County Tax Department, or other means that are sufficiently precise to include such description in the amending ordinance.
- C. The current and proposed zoning classification of the land.
- D. A statement regarding the consistency of the request with adopted Village plans and the surrounding area.
- E. A statement as to why the proposed map amendment is reasonable and in the public interest.
- F. For Conditional District rezoning requests, the additional information specified in Section 13.4 below and other sections of this Ordinance.

G. Any other reasonable information requested by the Administrator.

H. The fee prescribed in the Village's Fee Schedule.

I. Envelopes (with postage prepaid) containing the names and addresses of all those to whom notice of the public hearing on the proposed amendment must be mailed as provided in G.S. 160A-384.

The Administrator shall determine if the submitted application is complete. If incomplete, the applicant shall be notified of any deficiencies and the Administrator shall take no further steps until the deficiencies are remedied.

Any request to change an existing application, such as adding, deleting areas to be rezoned or changing the type of rezone, requires a new application be completed and signed by all parties.

The application may be withdrawn in writing any time prior to a final decision being made by Village Council. Any application that is withdrawn is considered null and void.

Section 13.3.4 Neighbor Meeting: An application for an amendment to the Official Zoning Map (rezone) that would potentially permit an increase in the density or intensity of uses on the subject property shall require the following:

- All adjacent property owners within one hundred (100) feet measured along the entire boundary of the subject property be contacted by the applicant and given an opportunity to meet with the applicant at a reasonable time and place to hear the applicant's explanation and answers to questions regarding the purpose and effect of the rezoning. A street right of way shall not be considered in computing the one hundred (100) foot distance as long as the street right of way is one hundred (100) feet wide or less; and
- The applicant must submit a summary report indicating the results of the meeting. Such summary must be submitted at least one week prior to the regular scheduled meeting of the Planning and Zoning Board.

No member of the Planning and Zoning Board or Village Council may participate in a neighborhood meeting in an official capacity. The applicant may conduct additional neighborhood meetings during the amendment process at the applicant's discretion.

Section 13.3.5 Planning and Zoning Board Review: The completed map amendment application, any comments from the applicant and the Administrator, summary report from the neighbor meeting and any other related material shall be referred to the Planning and Zoning Board for their review and recommendation. The Planning and Zoning Board shall have a maximum of 30 days from the date of referral to make a written recommendation, including a statement regarding the consistency of the draft with the adopted Village comprehensive plan and other plans, including the map of the zoning districts and the surrounding area. Such recommendations may, among other options, be the following:

- Grant the rezoning as requested, or
- Grant the rezoning with a reduction of the area requested, or

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- Grant the rezoning to a more restrictive general zoning district or districts, or
- Deny the application.

If a recommendation is not made during said time period, the application shall be forwarded to the Village Council without a recommendation.

Section 13.3.6 Public Hearing Scheduling and Notices Thereof: Upon receipt of a map amendment recommendation from the Planning and Zoning Board or in the absence of such recommendation within the allotted time period, or for a text amendment, the Village Council shall review and establish a public hearing date. Notices thereof shall be in accordance with G. S. 160A-364 and 160A-384 as follows:

A. Text Amendments: Text amendments shall require a notice of public hearing be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The first notice must be published not less than 10 days nor more than 25 days prior to the public hearing date.

B. Map Amendments: Map amendments shall require the owner of the land being amended and all owners of parcels of land within one hundred (100) feet measured along the entire boundary of the subject property be mailed a notice of public hearing on the proposed amendment by first class mail to the last address listed for such owners in the county tax abstracts. A street right of way shall not be considered in computing the one hundred (100) foot distance as long as the street right of way is one hundred (100) feet wide or less. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of public hearing. A notice of the public hearing shall also be prominently posted on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are the subject of the hearing, each parcel shall comply with this notice requirement.

C. Additional Notification: The Village may also publish notice of a proposed text or map amendment public hearing on the Village's website and TV channel at least ten days before the date of the public hearing, but this shall not be a mandatory requirement.

Section 13.3.7 Written Citizen Comments: If any resident or property owner in the Village submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the clerk to the Council at least two (2) business days prior to the proposed vote on such change, the clerk shall deliver such written statement to the Village Council.

Section 13.3.8 Action following Public Hearing: The Village Council shall consider the recommendation of the Planning and Zoning Board, comments from the Public Hearing, and any other information relating to the requested map amendment and take such action as it deems appropriate, including, but not limited to, the following:

- Refer the map amendment back to Planning and Zoning for further review, or
- Grant the rezoning as requested, or
- Grant the rezoning with a reduction of the area requested, or
- Grant the rezoning to a more restrictive general zoning district or districts, or
- Deny the rezoning.

Before a text amendment is adopted or rejected, the Village Council shall first adopt one of the following statements:

- A. A statement approving the amendment and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest; or
- B. A statement rejecting the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest; or
- C. A statement approving the zoning amendment and containing at least all of the following:
 - 1. A declaration that the approval is also deemed an amendment to the comprehensive plan. No other request or application is required to amend the comprehensive plan; and
 - 2. An explanation of the change in conditions the Village Council took into account in amending the zoning ordinance to meet the development needs of the Village; and
 - 3. Why the action is reasonable and in the public interest.

The Administrator shall send by first class mail within five (5) working days, a written notification of the action taken by the Village Council to the applicant and any persons who previously requested, in writing, notification of such action.

Section 13.3.9 Waiting Period for a Subsequent Map Amendment Application: A waiting period shall apply when Village Council has denied a request for map amendment or an application for such request has been withdrawn prior to the established public hearing on the application. The waiting period is as follows:

- A. No rezoning application covering all or a portion of the same property for the same district shall be accepted or considered within one (1) year following the date of the denial or withdrawal; provided however that this shall not apply to Conditional Zoning Applications and Mobile Home Overlay District applications and there shall be no waiting period for those types of rezoning.
- B. The Village Council may waive the one (1) year waiting period in Subsection A above if it considers the waiver to be reasonable.

Section 13.4 Conditional District (CD) Map Amendment (Rezone)(Amended 4/8/15): A rezone to a Conditional District (CD), as defined in Chapter 5 Section 5.6 of this Ordinance, is provided as a voluntary alternative method of petitioning the Village Council for a zoning map amendment. The owner is authorized to submit a rezoning application that proposes conditions and/or use limitations that are more restrictive than would otherwise be allowed in the corresponding General Use Zoning District. A request for a CD rezone shall be processed the same as any other rezone, except as follows.

Section 13.4.1 Initiation: The CD rezone request shall be initiated only by all of the owners of the property or by an agent, lessee, or contract purchaser. When an agent, lessee or contract purchaser files the application, the agent, lessee or contract purchaser shall provide the Village with notarized documentation from all the owners of the property authorizing the filing of the application.

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Section 13.4.2 Application: A CD rezone application provided by the Administrator shall include the information outlined in Section 13.3.3 above in addition to the following:

- The permitted or special use or uses intended for the property which must be those uses allowed in the corresponding General Use Zoning District; and
- The conditions proposed as part of the application. No condition shall be allowed which states the use of the property will be subject to existing rules and regulations of the property in any event; and
- Any additional information requested by the Administrator regarding any stated condition that may affect compliance with this Ordinance or any Village Ordinance.

Any request to change an existing application, such as adding, deleting area to be rezoned or changing the type of rezone, requires a new application be completed and signed by all parties.

The application may be withdrawn in writing any time prior to a final decision being made by Village Council. Any application that is withdrawn is considered null and void.

Section 13.4.3 Additional Conditions: Additional conditions may be proposed or recommended by the Administrator, Planning and Zoning Board or the Village Council. Only those conditions agreed to by the petitioner and approved by the Village Council may be included as part of a conditional district rezoning. Such conditions and site-specific standards shall be limited to those that address the conformance of the development and use of the property to Village ordinances and officially adopted plans and those that address the impacts reasonably expected to be generated by the development or use of the property.

Section 13.4.4 Rezoning to a Conditional District: If the Village Council approves the application for rezoning, the Conditional District and its conditions become the zoning of the property. In adopting or denying a Conditional District application, the Council shall follow the provisions of section 13.3.8.

Section 13.4.5 Changes to Conditions Attached to Conditional Use Zoning: Any change to the conditions attached to the rezoning approval shall be considered a change in the text of this Ordinance and, therefore, must be processed in accordance with the procedures set forth in this Chapter for such amendments.

Section 13.5 Map Amendment following Annexation: In accordance with G. S. 160A-360(f), when a Village annexes property that, on the effective date of the annexation, was regulated by Moore County, the county zoning regulations and powers of enforcement remain in effect until (1) the Village has zoned the newly annexed area in accordance with the provisions of this Chapter, or (2) a period of 60 days has elapsed following the annexation, whichever is sooner.