

**ARTICLE XV. AMENDMENT PROCEDURES; CONDITIONAL USE
DISTRICTS; SPECIAL USE PERMITS**

Section 15.1 General

The City Council may amend, supplement, or change the Zoning Ordinance text and zoning district lines and designations according to the following procedure. It is the intent of this Ordinance that the applicant for rezoning to any district other than a Conditional Use District shall be prohibited from offering any testimony or evidence concerning the specific manner in which he/she intends to use or develop the property. If the applicant believes that the development of his/her property in a specific manner will lessen adverse effects upon surrounding properties or otherwise make the rezoning more in accordance with the principles underlying the City's comprehensive zoning plan, he/she shall apply for rezoning to the appropriate Conditional Use District and simultaneously apply for a Conditional Use Permit specifying the nature of his/her proposed development. No permit shall be issued for any development within a Conditional Use District except in accordance with an approved Conditional Use Permit.

Section 15.2 Amendment Initiation

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

1. For a Textual Amendment:
 - a. the City Council;
 - b. the Planning and Zoning Board; or
 - c. anyone who owns property or resides in the area of jurisdiction of this Ordinance, or the agent of such person.
2. For a Map Amendment:
 - a. the City Council;
 - b. the Planning and Zoning Board; or
 - c. anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person. Provided, however, map amendments involving Conditional Use Districts may only be initiated by the owner or authorized agent of the owner.

Zoning text and map amendments initiated by the City Council must be submitted to the Planning and Zoning Board for its review and comment. If no written report is received from the Planning and Zoning Board within 30 days of referral of the amendment to that board, the City Council may proceed in its consideration of the amendment without the Planning and Zoning

Board report. The governing board is not bound by the recommendations, if any, of the Planning and Zoning Board.

Section 15.3 **Submittal**

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

The Zoning Administrator, before scheduling any application for amendment for consideration by the Planning and Zoning Board, shall ensure that it contains all the required information as specified in this Ordinance and 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 Zoning 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 45 days prior to the Planning and Zoning Board meeting at which the proposed amendment is scheduled to be considered.

All applications for amendment shall contain, as a minimum, a description of the proposed change, and if it would require a change of the zoning maps, the application shall include a map drawn to scale showing the land covered by the proposed amendment, a legal description of the property, and a list of names and addresses of all owners of property involved in the map change and all adjoining property owners as shown on County tax records.

Any application requesting a change to a Conditional Use District shall be accompanied by a Conditional Use Permit application showing the use or uses proposed and any conditions being proposed by the applicant.

Section 15.4 **Planning and Zoning Board Action**

The Zoning Administrator shall present any properly completed application for amendment to the Planning and Zoning Board at its next regularly scheduled meeting occurring at least 45 days after filing of such application with the Zoning Administrator. Public notice shall be given in accordance with Planning and Zoning Board Rules of Procedure.

The Planning and Zoning Board shall either recommend in favor of an amendment or in opposition to an amendment by simple majority vote of those present and voting. 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 and Zoning Board should fail to act on any proposed amendment within 45 days after it is presented to the Board, such failure to act shall be considered to be a favorable recommendation for the purposes of this procedure.

The Planning and Zoning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning and Zoning Board shall provide a written recommendation to the City Council that addresses plan consistency and other matters as deemed appropriate by the Planning and Zoning Board, but a comment by the Planning and Zoning Board that a

proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the City Council.

Section 15.5 City Council Action

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

The City Council shall take such lawful action on such proposals as it may deem advisable provided that no zoning amendment shall be adopted until after a public hearing shall have been held. Notice of public hearing shall be given as required by North Carolina General Statute 160A, Article 19, Part 3 (Zoning).

Prior to adopting or rejecting any Zoning Map or text amendment, the City Council shall adopt a statement describing whether it's action is consistent with an adopted comprehensive plan and explaining why the City Council considers the action taken to be reasonable and in the public interest.

Section 15.6 Citizen Comments

Zoning ordinances may from time to time be amended, supplemented, changed, modified, or repealed. If any resident or property owner in the City submits a written statement regarding a proposed amendment, modification, or repeal to the zoning ordinance to the City Clerk at least two business days prior to the proposed vote on such change, the City Clerk shall deliver such written statement to the City Council. If the proposed change is subject of a quasi-judicial proceeding under NCGS 160A-388, the Clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the Council shall not disqualify any member of the Council from voting.

Section 15.7 Special Provisions for Conditional Use Districts and Conditional Use Permits

Proposals for rezoning to any Conditional Use District shall always be accompanied by a request for a Conditional Use Permit. Such proposals and requests shall be processed and considered in the same procedure as conventional rezoning proposals, except as otherwise set forth herein, and the voting shall be the same as that required for zoning matters.

Any proposal for Conditional Use District rezoning and its accompanying request for a Conditional Use Permit shall be heard and considered simultaneously. If the City Council should determine that the property involved in the proposal should be rezoned and the Conditional Use Permit issued, it shall adopt an Ordinance rezoning the property and authorizing the issuance of the Conditional Use Permit. Otherwise the proposal shall be denied.

In granting a Conditional Use Permit, the City Council shall make the following affirmative findings:

1. that the use(s) requested is among those listed as an eligible Conditional Use in the Conditional Use District in which the subject property is located;
2. that the use limitations and conditions as proposed and/or requested for the Conditional Use Permit meet or exceed and/or are at least as restrictive as the minimum standards for the corresponding General Use District;
3. that the use limitations and conditions as proposed and/or requested for the requested Conditional Use Permit can reasonably be implemented and enforced for the subject property;
4. that when implemented, the proposed and/or requested use limitations and conditions will mitigate specific land development issues that would likely result if the subject property were zoned to accommodate all the uses and the minimum standards of the corresponding General Use District; and
5. that the applicant has agreed to accept the use limitations and conditions requested by the City Council for the requested Conditional Use Permit.

Specific conditions may be proposed by the petitioner or the City Council, but only those conditions mutually approved by the City and the petitioner may be incorporated into the zoning regulations or permit requirements. Conditions and site-specific standards imposed in a Conditional Use District shall be limited to those that address the conformance of the development and use of the site to City ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. If all requirements and conditions are accepted by the applicant, the City Council shall authorize the issuance of the Conditional Use Permit. Otherwise the Permit shall be denied.

Any Conditional Use Permit so authorized shall be perpetually binding upon the property included in such Permit unless subsequently changed or amended by the City Council, as provided for in this Article.

The City Council may change or amend any Conditional Use Permit, after a public hearing upon recommendation by the Planning and Zoning Board and subject to the same consideration as provided for in this Section for the original issuance of a Conditional Use Permit.

No more than one proposal to amend or change any Conditional Use Permit shall be considered within 12 months of the date of the original authorization of such Permit or within 12 months of hearing of any previous proposal to amend or change any such Permit.

Section 15.8

Maximum Number of Applications

No application for the same zoning district applicable to the same property or any part thereof shall be filed until the expiration of 1 year from:

1. the date of final determination by the City Council; or
2. the date of the public hearing or scheduled public hearing if the application is withdrawn after it has been advertised for public hearing.

Provided, further, in no case shall more than 2 rezoning applications, not counting any filed on behalf of the City, be filed for a given property or part thereof within any 12 month period.

Fees submitted for withdrawn cases shall not be refundable.

Section 15.9 Special Uses

Permitting Special Uses adds flexibility to the Zoning Ordinance. Subject to high standards of planning and design, certain property uses are allowed in several districts where these uses would not otherwise be acceptable. By means of controls exercised through the Special Use Permit procedures, property uses that would otherwise be undesirable in certain districts can be developed to minimize any adverse effects they might have on surrounding properties.

The uses for which Special Use Permits are required are listed in Article VI, Table of Permitted and Special Uses and are shown with the letter “S” in the zoning district column opposite the use. Section 6.5 sets forth the minimum additional planning and design requirements for each Special Use. Special Uses may be considered for approval by the City Council as provided for herein.

Section 15.9.1 Special Use Permits Granted by the City Council

Special Use Permits may be granted by the City Council for uses listed in Article VI. Special Use Permits shall first be submitted to the Planning and Zoning Board for a recommendation to the City Council.

1. Procedure.
 - a. The owner or owners of all property included in the petition for a Special Use Permit shall submit an application to the Zoning Administrator at least 30 days prior to the Planning and Zoning Board meeting at which it is to be heard. Such application shall include all of the requirements pertaining to it including the map requirements of Section 15.3.
 - b. The Special Use Permit is first to be heard by the Planning and Zoning Board, which shall give notice of a public hearing. Notice of the public hearing shall be posted on the property for which the special use permit is sought and run in a local newspaper of local distribution once weekly for two consecutive weeks. At the public hearing, all interested persons shall be permitted to testify.

- c. The Planning and Zoning Board shall review the application and forward its recommendations to the City Council within 45 days after its hearing. Unless the Board requests and is granted an extension by the Council, failure to submit a recommendation within this period without an extension shall be deemed a favorable recommendation. In making its recommendation the Planning and Zoning Board shall consider the findings and conclusions as set forth in 2 below.
- d. The City Council shall hold a quasi-judicial hearing after due notice is given and may grant or deny the Special Use Permit requested. The City Council's regular voting procedure shall be followed. No Special Use Permit shall be considered at the same City Council meeting at which the Council is considering a rezoning request for the same property (such a procedure is provided for in this Ordinance as Conditional Use Rezoning).

2. Findings and Conclusions.

The Special Use Permit, if granted, shall include preliminary approval of plans as may be required. In granting the permit, the City Council shall find:

- a. that the use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted and approved;
- b. that the use meets all required conditions and specifications;
- c. that the use will not substantially injure the values of adjoining or abutting property, or that the use is a public necessity;
- d. that the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Archdale and its environs; and
- e. in granting the Special Use Permit, the City Council may propose such additional restrictions and requirements as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured, and substantial justice done. If all requirements and conditions are accepted by the applicant, the City Council shall authorize the issuance of the Special Use Permit. Otherwise the Permit shall be denied. If the City Council denies the Special Use Permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken.

Except where the City Council is considering revocation, no more than 1 proposal to amend or change any Special Use Permit shall be considered within 12 months of the date of the original authorization of such Permit or within 12 months of hearing of any previous proposal to amend or change any such Permit.

Section 15.9.2 **Minimum Requirements for Special Use Permits**

The Special Use must comply with the minimum conditions listed for the use in Section 6.5 in addition to any special conditions that may be imposed as part of the Special Use Permit approval process.

Section 15.9.3 **Termination and Abandonment of Special Use Permits**

1. A Special Use Permit shall remain vested for a period of two years. A right, which has been vested, shall be terminated at the end of the two-year vesting period with respect to buildings and uses for which no valid Building Permit applications have been filed.
2. Abandonment of a Special Use: If any Special Use is discontinued for a period exceeding 18 months, it shall be deemed abandoned and the Special Use Permit shall be null and void and of no effect.
3. Replacement of a Special Use by a Permitted Use by Right: If any Special Use is replaced by a use otherwise permitted in the zoning district, it shall be deemed abandoned and the Special Use Permit shall be null and void and of no effect.

Section 15.10 **Small Scale Rezoning**

A statement analyzing the reasonableness of a Zoning Map amendment involving an area of less than 2 acres shall be prepared by the Planning Staff and presented at the public hearings for each such rezoning. Zoning Map amendments involving an area of less than 2 acres whose proposed rezoning, when combined with adjacent property already in the proposed district, would result in a combined area of greater than 2 acres shall be exempt from this requirement.