

**ARTICLE M
AMENDMENTS**

9-3141 Procedure for Amendments

The Town Council may amend, supplement or change the text regulations and zoning district lines according to the following procedures:

- .1 Initiation of Amendments. Proposed changes or amendments may be initiated by the Town Council, Planning Board, Board of Adjustment, or by one or more owners or lessees of property within the area proposed to be changed or affected.
- .2 Petition. A petition for any change or amendment shall contain a description and/or statement of the present and proposed zoning regulation or district boundary to be applied and the names and addresses of the owner or owners of the property. Such petition shall be filed with the Zoning Enforcement Officer not later than three (3) weeks prior to the meeting at which the petition is to be considered.
- .3 Fee. A fee, set by the Town Council, shall be paid to the Town Clerk of the Town of Valdese, North Carolina, for each petition for an amendment to cover the costs of advertising and other administrative expenses involved.

9-3142 Action by the Planning Board

The Planning Board shall consider and make recommendations to the Town Council concerning each proposed zoning amendment. The Planning Board, at its own discretion, may hold a public hearing if deemed necessary by the Planning Board. Otherwise, the Planning Board will send its recommendation directly to the Town Council who shall hold a public hearing for every proposed zoning amendment. The Planning Board shall advise and comment on whether the proposed amendment is consistent with any land development plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters deemed appropriate by the Planning Board. Any comment by the Planning Board that a proposed text or map amendment is inconsistent with any officially adopted plans shall not preclude consideration or approval of the proposed amendment by Town Council.

9-3143 Town Council Consideration

The Town Council shall consider changes and amendments to this Ordinance as often as necessary, provided, however, that should the Town Council deny a request for a zoning amendment, it shall not thereafter accept any other petition for the same change of zoning district affecting the same property, or any portion thereof, until the expiration of one (1)

year from the date of such previous denial.

9-3144 Required Notifications

- .1 Legal Notice of Public Hearing. No amendment shall be adopted by the Town Council until after public notice and hearing. In accordance with NCGS 160A-364, notice of public hearing shall be published in a newspaper of general circulation in the Town of Valdese at least once each week for two (2) successive weeks prior to the hearing. The first notice shall appear in the newspaper at least ten (10) days but not more than twenty-five (25) days prior to the hearing.

- .2 Mail Notice Requirements. In accordance with NCGS 160A-384, whenever the amendment involves a change in the zoning classification of a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting or within 100 linear feet of that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed reclassification and a notice of the public hearing required in Section 9-3144.1. Such notice shall be sent by first class mail to the last address listed for such owners on the county tax listing. The person responsible for making the mailed notice shall certify to the Town Council that such notice was indeed prepared and mailed.

- .21 In accordance with NCGS 160A-384(c), whenever an amendment involves a change in the zoning classification of a parcel of land, the Town shall prominently post a notice of the public hearing in the site proposed for rezoning or on an adjacent right-of-way. When multiple parcels are included within a proposed zoning map amendment, the Town shall post sufficient notices to provide reasonable notice to interested persons.

- .3 Substitute Notice.
 - (a) In accordance with NCGS 160A-384(b)(3), (4) and (5) individual mailed notices may be waived in lieu of a substitute notice if the amendment meets at least one of the following criteria:
 - 1) if the zoning reclassification directly involves more than fifty (50) properties, owned by a total of at least fifty (50) different owners;
 - 2) if the proposal involves an amendment to the text of the Zoning Ordinance such that it changes the permitted, conditional, or accessory uses of a zoning district;
 - 3) if the Town is adopting a water supply watershed protection program as required by NCGS 143-214.5

(b) Notice requirements for amendments meeting any of the three criteria of Section 9-3144.3 (a) above are as follows:

- 1) Notice of the public hearing shall be published in a newspaper of general circulation in the Town of Valdese at least once each week for two (2) consecutive weeks prior to the hearing. The notice must include a map no less than one-half the size of the newspaper page. The map must show the boundaries of the area affected by the proposed amendment;
- 2) The Town must notify by first class mail any property owner who resides outside the Town's zoning jurisdiction or outside the circulation area of the newspaper in which the notice is published. The notice must be mailed to the last address listed for such owners on the most recent county tax listing.

9-3145 Town Council Action

Before taking such lawful action as it may deem advisable, the Town Council shall consider the Planning Board's recommendations on each proposed zoning amendment. If no recommendations are received from the Planning Board within thirty (30) days after their meeting, the proposed amendment shall be deemed to have been approved by the Planning Board. Prior to adopting or rejecting any zoning amendment, Town Council shall adopt a statement describing whether its action is consistent with the adopted Land Use Plan and explaining why the Council considers its action to be reasonable and in the public interest (NCGS 160A-383). In accordance with NCGS 160A-381(d) and 160A-75, a council member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable impact on the member. Under no circumstances shall the Town Council adopt such amendments that would cause this Ordinance to violate the watershed protection rules as adopted by the North Carolina Environmental Management Commission. Amendments affecting the watershed protection portions of this Ordinance shall be filed with the North Carolina Division of Environmental Management, the North Carolina Division of Environmental Health, and the North Carolina Division of Community Assistance.

9-3146 Protest Petitions

- .1 General. A protest petition may be presented against any proposed amendment. To qualify as a protest petition under this section must be signed by the owners of either (i) twenty percent (20%) or more of the

area included in the proposed change or (ii) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in the computing of the 100-foot buffer area as long as that street right-of-way is 100 feet or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel (G.S. 385(a)). In case of a valid protest petition, the amendment shall not become effective except by favorable vote of three-fourths (3/4) of all members of the Valdese Town Council.

- .2 **Petition Requirements.** No protest petition against any change in or amendment to the Zoning Ordinance or Zoning Map shall be valid unless presented in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do indeed protest the proposed amendment or change. Furthermore, the protest petition must be received by the Town Clerk in sufficient time to allow the Town at least two (2) normal working days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment in order to determine the sufficiency and accuracy of the petition (G.S. 160A-387). A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment (G.S. 160A-386). Only those protest petitions that meet the qualifying standards set by G.S. 160A-385 at the time of the vote shall trigger the three-fourths (3/4) majority.
- .3 **Petition Applicability.** The foregoing provisions about protest petitions shall not be applicable to any amendment, which initially zones a property added to the territorial coverage of the ordinance because of annexation or other means.
- .4 **Voting Calculations.** In accordance with NCGS 160A-385(a), vacant positions on the Town Council and members who are excused from voting shall not be used in the calculation of the three-fourths (3/4) majority.

9-3147 Conditional Use Permits

- .1 Conditional Uses. The Town Council shall grant in particular cases and subject to the appropriate conditions and safeguards, permits for conditional uses as authorized by this Ordinance and set forth as Conditional Uses under the various use districts. The Council shall not grant a conditional use permit unless and until:
- (a) A written application for a conditional use permit is submitted to the Zoning Enforcement Officer indicating the section of this Ordinance under which the conditional use permit is sought.
 - (b) The Planning Board has reviewed the application and made a recommendation to the Town Council. If the Planning Board fails to submit a recommendation within 30 days of first consideration of the application, a recommendation of approval from the Planning Board shall be assumed.
 - (c) A public hearing is held. Notice of such public hearing shall be mailed to property owners within one hundred (100) feet of the property for which the conditional use permit is sought and advertised in a local newspaper the first time at least ten (10) days and not more than twenty-five (25) days prior to the public hearing. This legal notice shall describe the request and appear at least once weekly for two (2) consecutive weeks prior to the public hearing.
 - (d) The Town Council finds that in the particular case in question the use for which the Conditional Use Permit is sought will not adversely affect the health, or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. In granting such a permit, the Town Council may designate such conditions in connection therewith as will, in its opinion, assure that the proposed use will conform to the requirements and spirit of this Ordinance.
 - (e) If at any time after a Conditional Use Permit has been issued, the Town Council finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a Conditional Use Permit, the permit shall be terminated and the operation of such a use discontinued. If a conditional use permit is terminated for any reason, it may be reinstated only after a public hearing is held.

Sections 9-3148 through 9-3150 reserved.