

PART 20

AMENDMENTS

NOTE: SUPPLEMENTARY REQUIREMENTS FOR REZONING PETITIONS TO A PARALLEL CONDITIONAL USE ZONING DISTRICT ARE FOUND IN SECTION 20.2

Section 20.1 Amendments to Text And Map

Land use regulations, as contained in this Ordinance, including zoning district boundaries, may from time to time be amended, supplemented, changed, modified or repealed in the following manner:

20.1.1 Applications for a change in the Ordinance text or zoning map may be instituted by the Planning Board, City Council or any person.

20.1.2 The application for a change in a zoning district shall be made on a form provided by the City.

a. Each non-contiguous parcel of land for which a rezoning is requested shall be considered as a separate application, and a fee (in accordance with a fee schedule established by the City Council) shall accompany each application. There shall be no fee for applications instituted by the Administrator or any City of Lincolnton official acting on behalf of the City.

b. Each application shall be signed and contain the following information:

1. Applicant's full name, address and telephone number; the property owner's full name, address and telephone number, if different from applicant.

2. Applicant's interest in the property.

3. If the proposed change would require a change in the zoning map, the current zoning of the property and the type of zoning requested. In addition, the application shall be accompanied by an accurate and scaled diagram showing:

A. All property lines with dimensions, distances of lot from the nearest street intersection and north arrow.

B. Adjoining street rights-of-way and paving widths.

C. Zoning classification of all contiguous lots.

D. The names and addresses of all contiguous property owners as shown on the most current records of the Lincoln County Tax Supervisor's Office.

E. Except for rezonings involving a conditional use permit, neither the Planning Board nor the City Council shall evaluate a rezoning petition based on any specific proposal for the use or development of the property. The petitioner shall refrain from using any graphic materials or descriptions before either body except for those that would apply to any use permitted in the requested zoning district.

20.1.3 The application for a change in the text shall be on a form provided by the City and shall be accompanied by a fee (in accordance with a fee schedule established by the City Council). The application shall contain a reference to the specific section, subsection, paragraph or item proposed for change, as well as the wording of the proposed change.

20.1.4 No application shall be considered by the Planning Board unless it has been properly completed and submitted to the Administrator or his designee at least fifteen (15) days prior to the meeting at which it is to be reviewed. This requirement may be waived by a unanimous vote of the Planning Board membership present at a meeting of the Planning Board occurring less than fifteen (15) days prior to the date of submission.

In no case shall the meeting at which the Planning Board initially reviewed the application occur greater than sixty (60) days after the completed application was submitted to the Administrator. The Planning Board shall have thirty (30) days from the date of referral to comment and submit its recommendation to the City Council. If a recommendation is not made during said thirty (30) day period, the application shall be forwarded to the City Council without a recommendation. During the process of reviewing an amendment, the Planning Board must advise the governing board in writing whether the amendment is consistent with the adopted Lincolnnton Land Use Plan. This can be done as part of the recommendation to the City Council in the Staff Report or by other means.

20.1.5 If a petition for rezoning is proposed, the Planning Board shall consider the matter. If a recommendation is made to the City Council, it shall be as follows:

- a. Grant the rezoning as requested, or
- b. Grant the rezoning with a reduction of the area requested, or
- c. Grant the rezoning to t more restricted general zoning district or classification (s) (but less restrictive than the existing zoning classification) as shown in Section 20.1.7 of this Ordinance;
- d. Grant the rezoning with a combination of Sections 20.1.5(a) (b) and (c), or
- e. Denial of the application request.

20.1.6 If a petition to amend the text of this Ordinance is proposed, the Planning Board shall consider the matter. If a recommendation is made to the City Council, it shall be as follows:

- a. Adoption of the amendment(s) as written, or
- b. Adoption of the amendment as revised by the Planning Board, or
- c. Rejection of the amendment.

20.1.7 The list of all general zoning districts in descending degrees of restrictiveness as follows:

1. R-25 (most restrictive)
8. OI

2.	R-15	9.	NB
3.	R-10	10.	PB
4.	R-8	11.	CBT
5.	RMF	12.	CB
6.	RO	13.	GB
7.	ROS	14.	GMC

20.1.8 The Administrator shall transmit any decision of the Planning Board to the City Council. Once action has been taken by the Planning Board or the time for action by the Planning Board has expired, the City Council may call a public hearing on the proposed action. Notification of the public hearing shall be made in the following manner:

- a. A notice shall be published in a newspaper having general circulation in the Lincolnton area once a week for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the public hearing. In computing such time, the date of publication is not to be included, but the date of the hearing shall be included.
- b. A notice shall be conspicuously placed by the City in the City Hall not less than ten (10) days nor more than twenty-five (25) days before the date established for the public hearing.
- c. A conspicuous notice shall be posted by the City in at least one (1) conspicuous place on the subject property or on the street right of way near the site at least ten (10) days prior to the public hearing. For map amendments that contain multiple parcels, sufficient notice must be posted around the site.
- d. At least ten (10) days, but not more than twenty-five (25) days prior to the public hearing, a notice of the proposed zoning change shall be sent by the City by first class mail to the owners of property subject to the proposed rezoning action and to all contiguous property owners.
- e. The first class mail notice cited in Section 20.1.8(d) may not be required if the proposed zoning action involves a zoning map amendment that directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners. In lieu of sending first class mail notice to all the affected and contiguous property owners, the City may elect to publish in a newspaper of local circulation a notice of the public hearing that includes one or more maps showing the boundaries of the area affected by the proposed map amendment. Said newspaper notice shall be not less than one-half of a newspaper page in size and shall be published once a week for at least two consecutive weeks. Said notice shall satisfy the two advertisements published to satisfy the requirements of Section 20.1.8(a). Notwithstanding, affected and contiguous property owners who reside outside the circulation area of the newspaper shall be sent first class mail notice of the public hearing per Section 20.1.8(d).

20.1.9 A written petition of protest may be filed with reference to any proposed zoning map amendment. In a case of protest against such change, signed by the owners of five (5%) of a 100 foot wide buffer extending along the entire boundary (right of way included if less than 100 feet in width), an amendment shall not become effective except by favorable vote of three-fourths (3/4) of all the members of the City Council. In determining a three-fourths (3/4) vote, vacant positions on the City Council or members who are excused from voting (but not abstentions) shall be considered members of the

City Council. The foregoing provisions concerning protests shall not be applicable to any amendment that initially zones property added to the territorial coverage of this Ordinance as a result of annexation or otherwise.

- a. No protest against any proposed change shall be valid of effective unless it be 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 Administrator or his designee in sufficient time to allow the City at least two (2) normal City and County 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. All protest petitions shall be on a form prescribed and furnished by the Administrator, and such form may prescribe any reasonable information deemed necessary to permit the Administrator to determine the sufficiency and accuracy of the petition.

20.1.10 After the public hearing has been conducted and officially closed, the City Council shall render a decision concerning the proposal not later than the next regularly scheduled City Council meeting. The decision of the City Council shall be limited to one of the various alternatives listed in Sections 20.1.5 and 20.1.6 of this Ordinance. A copy of the City Council's decision shall be sent to the applicant by the Administrator by first class mail within five (5) working days after the City Council's decision.

- a. The City Council must adopt during the decision making process a statement of whether the amendment is consistent with the Lincolnton Land Use Plan and is reasonable and in the public interest. Statements are not subject to judicial review.

20.1.11 If the City Council has denied an application for the change of any zoning district or change in zoning text, it shall not, thereafter, accept any application for the same or substantively similar change of zoning districts affecting the same property or any portion thereof or for a similar change in the zoning text until the expiration of one (1) year from the date of such previous denial.

When a petition for a change in classification zoning is withdrawn prior to it being considered by the City Council, no new petition for any change in zoning classification of the same property or any part thereof may be filed by said petitioner within a period of ninety (90) days immediately following the withdrawal of the petition.

Section 20.2 Addition Provisions Pertaining To Parallel Conditional Use Zoning Amendments

The procedures in this section exist to supplement the procedures set forth in Section 20.1 of this Ordinance, to clarify special requirements for parallel conditional use rezonings and to relate the issuance of the conditional use permit to the zoning map amendment process.

20.2.1 Purpose

The conditional rezoning process allows particular uses to be established, but only in accordance with a specific development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediate surrounding area and/or on the entire community that cannot be predetermined and controlled by general district standards or the criteria governing planned developments. There are also circumstances in which a general district designation

allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property and be consistent with the objectives of these regulations, the adopted Land Use Plan, and other plans for the physical development of the City as adopted by the City Council. The review process established herein provides for the accommodation of such uses by a reclassification of property into a "parallel conditional use" district approval process is also established to address those situations when a particular use may be acceptable but the general zoning districts which would allow that use would not be acceptable.

20.2.2 Reclassification and Conditional Use Permit Required Prior to Development

In order for a property owner to secure privileges for developing property under the parallel conditional use process, the property must first be rezoned by the City Council to a parallel conditional use district, and secondly the owner must secure a conditional use permit in accordance with Part 13 of this Ordinance from the City Council. The Conditional Use Permit that may contain fair and unreasonable conditions to assure conformance with this Ordinance and other plans adopted by the City Council and to obtain sufficient compatibility with surrounding properties. Any use permitted under this process must also conform to the development regulations for the corresponding general zoning district.

Thus, if a property were rezoned to a CU-NB District and conditional use permit authorized the development of a particular use, that use must (i) be a use allowed in the NB District and (ii) meet all dimensional, screening and related requirements of the NB District. Rezoning of property to a parallel conditional use district is a voluntary procedure on the part of the property owner and is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative proposals that may not be undertaken for some time. No parallel conditional use district shall be established until the owner(s) of the property (ies) in question (or his authorized agent) proposing the district has submitted an application for the rezoning of the property and issuance of a conditional use permit and the City Council has approved such application in accordance with the procedures stated herein.

20.2.3 Plans and Other Information to Accompany Petition

Every application for the rezoning of property to a parallel conditional use district and issuance of a conditional use permit shall be accompanied by a site plan, drawn to scale, and any necessary supporting information together which conform to all the requirements set forth in Section 13.3-a of this Ordinance and when requested, such additional information that may be required pursuant to Section 13.3-f of this Ordinance.

20.2.4 Submittal to the Administrator

Submittal to the Administrator of an application for a parallel conditional use rezoning shall be in accordance with the schedule set forth in Section 20.1.4 of this Ordinance. Normally, an application for a conditional use permit is submitted at the same time and is reviewed by the Administrator, Planning Board, and City Council, and is approved by the City Council at the same time with review and approval of the rezoning application. However, when the application is for a conditional permit in conformance with the parallel permit in conformance with the parallel conditional use rezoning application (approved or under review), it may be submitted at a later date or may be approved by the City Council at a date following approval of the parallel conditional use rezoning. The application for a parallel conditional use zoning amendment can only be initiated by the property owner/owners.

20.2.5 City Council Decision

A rezoning, under the parallel conditional use rezoning process, does not confer upon the applicant any privileges for development under that zoning district unless and until a conditional use permit is approved for the property in question by the City Council.

Prior to issuance of a conditional use permit the application shall be subject to all of the procedures, hearing, and findings as set forth in Section 13.4 (and 13.5 if applicable) of this Ordinance.

20.2.6 Effect of Approval

- a. If a petition for a parallel conditional district rezoning and conditional use permit are both approved under this Part, the district that is established, the approved conditional use permit, and all conditions which may have been attached to the approval are binding on the property as an amendment to these regulations and to the Zoning Map. All subsequent development and use of the property shall be in accordance with the standards for the approved conditional use district, the conditional use permit, and all conditions attached to the approval. The City Council or applicant may propose Conditions: Only conditions that are mutually agreed upon can be adopted by the City Council and incorporated into the permit requirements.
- b. If a petition is approved subject to conditions, the Administrator shall record with the register of deeds a notice that development of the subject property is subject to conditions and that such conditions are on file at the Administrator's Office.
- c. Following the approval of the petition for a parallel conditional use district, the subject property shall be identified on the Zoning Map by the appropriate district designation. A parallel conditional use district shall be identified by the same designation as the underlying general zoning district preceded by the letters CU (For Example, "CU-NB").
- d. Any conditional use permit issued in relation to a parallel conditional use rezoning shall be subject to the same requirements as any other conditional use permit as set forth in Part 13 of this Ordinance.

20.2.7 Alterations to Approval

- a. Except as provided in Subsection (b) below, changes to the approved petition or to the conditions attached to the approval shall be treated the same as amendments to these regulations or to the Zoning Map and shall be processed in accordance with the procedures in this Part.
- b. Minor changes in the detail of the approved application that are in accordance with Section 13.6 of this Ordinance may be made with the approval of the Administrator.

20.2.8 Change in Parallel Conditional Use Zoning

Once a petition for rezoning to a parallel conditional use district and issuance of a conditional use permit has been approved by the City Council, any request to materially change (any change not authorized by 20.2.7(b) of this Ordinance) the parallel conditional use district or conditional use permit for a property may only be made by the property owner or his authorized agent only after a public hearing has been duly advertised and held in accordance with Section 20.1.8 of this

Ordinance. Any amendment to the conditional use permit shall also be subject to the same considerations as set forth in Section 13.4 (and 13.5 if applicable) of this Ordinance.

20.2.9 Revocation of Approval of a Parallel Conditional Use District

It is intended that property shall be reclassified to a parallel conditional use district and conditional use permit issued only in light of firm plans to develop the property. Therefore, after the date of approval of the conditional use permit, the Administrator shall periodically examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Administrator determines that a building permit has not been secured within one (1) year (unless a greater time period was listed as one of the conditions contained in the City Council's approval) following the date of the approval of the conditional use permit, the Administrator shall notify the applicant of such a finding, and within sixty (60) days of said notification, the Planning Board shall make a recommendation to the City Council concerning the recession of the conditional use permit and rezoning of the property to a general zoning district classification. The Planning Board shall recommend to extend the life of the conditional use permit or have it rescinded. If the conditional use permit is rescinded, the City Council may then vote to rezone the property to a general zoning district. Notice of said public hearing shall be per Section 20.1.8 of this Ordinance.