

## **ARTICLE XI AMENDMENTS**

### **Section 1. Amendments in General.**

The Board of Commissioners may, on their own motion or upon petition, initiate the process to amend, change, modify or repeal this Ordinance including the Zoning Maps subject to the procedures and rules established by law and in this Article.

### **Section 2. Amendment Procedure.**

#### **A. Initiation of Request.**

- 1) Any property owner or his/her agent, or citizen or his/her agent may initiate the process to amend this Ordinance including the Zoning Maps by submitting an application and a site-plan as per Article VI Section 10 of this Ordinance, at least thirty (30) days prior to the regularly scheduled meeting. In addition, a statement of reasonableness of the proposed request shall be prepared for each application for a rezoning. Pursuant to NCGS 160D-601, no amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the local government. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:
  - a) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
  - b) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.
- 2) There shall be a fee payable to the Town of Ramseur for each application for rezoning. The amount of said fee shall be fixed by the Commissioners and shall be sufficient to defray all administrative costs incurred in processing the application, notifying adjacent property owners, obtaining technical assistance, and publishing the notice of public hearing.

#### **B. Planning Board Consideration of Proposed Amendments.**

- 1) Amendments shall be referred to the Planning Board for its consideration.
- 2) The Planning Board shall submit its recommendation to the Board of Commissioners, within thirty (30) days of first consideration. If a recommendation is not made in that time-period, the Board of Commissioners may proceed to act on the application. The

Commissioners are not bound by the recommendations, if any, of the Planning Board.

- 3) Planning Board members shall not vote on recommendations regarding 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 financial impact on the member. A Planning Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- 4) The Planning Board shall be prohibited from allowing any testimony or evidence concerning the specific manner an applicant/property owner intends to use or develop the property, except in the case of a request for a Conditional Zoning District. If the applicant believes that development of his property in a specific manner will lessen adverse effects upon surrounding properties or otherwise make the rezoning more in accordance with principles underlying the Ramseur Land Development Plan, he shall apply for rezoning to the appropriate Conditional Zoning District specifying the nature of his proposed development. Pursuant to NCGS 160D-703(b), property may be placed in a conditional district only in response to a petition by all owners of the property to be included. Specific conditions may be proposed by the petitioner or the local government or its agencies, but only those conditions approved by the local government and consented to by the petitioner in writing may be incorporated into the zoning regulations. *Any violation of a term or condition of a Conditional Zoning District shall be treated the same as a violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation.*
- 5) The Planning Board shall advise and comment on whether the proposed amendment is consistent with the Ramseur Land Development Plan. The Planning Board shall provide a written recommendation to the Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a recommendation from the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Commissioners.

**C. Public Notice.**

- 1) No amendments may be adopted to this Ordinance until a public hearing has been held on such an ordinance by the Board of Commissioners.

- 2) The Zoning Administrator shall publish a notice of the public hearing on any amendments to this Ordinance once a week for two (2) successive weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of hearing shall be included.
- 3) In addition to the public notice, above, where the proposed amendment involves a change in the designation of any parcel of land, the Zoning Administrator shall, by first class mail, give notice of the public hearing to the owner(s) of parcel(s) involved in the proposed amendment, if the owner(s) are different from the applicant(s), as well as the owners, as shown on the tax rolls of Randolph County, of all land abutting the parcel(s) involved in the proposed amendment, including properties separated from the subject property by street, railroad, or other transportation corridor. This notice must be deposited in the mail at least ten (10) days but not more than twenty-five (25) days prior to the date of the hearing. Certification shall be included in the report prepared by the Zoning Administrator that such notice has been made.
- 4) When a zoning map amendment is proposed, the Town shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. Pursuant to NCGS 160D-602(c), this notice shall be posted not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day the notice is posted is not to be included but the day of hearing shall be included.

**D. Board of Commissioners Consideration of Proposed Amendments.**

- 1) Board members shall not vote on recommendations regarding 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 financial impact on the member. A Town Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- 2) The Board of Commissioners shall be prohibited from allowing any testimony or evidence concerning the specific manner an

applicant/property owner intends to use or develop the property, except in the case of a request for a Conditional Zoning District. If the applicant believes that development of his property in a specific manner will lessen adverse effects upon surrounding properties or otherwise make the rezoning more in accordance with principles underlying the Ramseur Land Development Plan, he shall apply for rezoning to the appropriate Conditional Zoning District specifying the nature of his proposed development. Pursuant to NCGS 160D-703(b), property may be placed in a conditional district only in response to a petition by all owners of the property to be included. Specific conditions may be proposed by the petitioner or the local government or its agencies, but only those conditions approved by the local government and consented to by the petitioner in writing may be incorporated into the zoning regulations.

*Any violation of a term or condition of a Conditional Zoning District shall be treated the same as a violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation.*

- 3) At the conclusion of the public hearing on a proposed amendment, the Board of Commissioners may proceed to vote on the proposed amendment, refer it for further study or take any other action consistent with its usual rules of procedure.
- 4) Determination of Consistency and Statement of Reasonableness. As required by NCGS 160D-605, prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt one of the following statements which shall not be subject to judicial review:
  - a) A statement approving the zoning amendment and describing its consistency with the Ramseur Land Development Plan and explaining why the action taken is reasonable and in the public interest.
  - 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.If the amendment is adopted and the action is deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending the future land use map in the approved plan and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment shall be considered concurrently.
- 5) The Board of Commissioners is not required to take final action on a proposed amendment within any specific period of time.

**Section 3. Resubmittal of a Zoning Change Request.**

No such proposed change in the Zoning Ordinance or map if denied by action of the Board of Commissioners may be resubmitted within a period of one (1) year from the date of such denial by the Board, unless the Board of Commissioners unanimously find that changing conditions in the area or new information concerning the property requested for rezoning warrants a resubmission for change in the Zoning Ordinance or Map.

**Section 4. Withdrawal of an Application.**

An applicant may withdraw an application at any time prior to the hearing by written notice to the Zoning Administrator.