



Town of Carthage

Variance Text Amendment Request Form

Applicant Information

FEE: \$ _____

Applicant's Name	Phone	Email
Applicant's Address		City, State, Zip

Property Owner Information (if different)

Owner's Name	Phone	Email
Owner's Address		City, State, Zip

Site Information (if applicable)

Site Address (if applicable)	LRK/Parcel ID#	Business Name	
Lot Size	Current Zoning	Proposed Zoning	# Of Proposed Parcels
Proposed Use		Proposed Utilities <input type="checkbox"/> Public Water <input type="checkbox"/> Public Sewer <input type="checkbox"/> Private Well <input type="checkbox"/> Private Septic	

Proposed Building

Square Footage	Height	# of Parking Spaces	Handicapped Spaces <input type="checkbox"/> Yes <input type="checkbox"/> No #
Front Setback	Rear Setback	Side Setback	Corner Setback

Existing Building

Square Footage	Height	# of Parking Spaces	Handicapped Spaces <input type="checkbox"/> Yes <input type="checkbox"/> No #
Front Setback	Rear Setback	Side Setback	Corner Setback

Explanation of Request: (Please be as specific as possible)

The applicant agrees to comply with all of the applicable laws regulating the described work and operate or build according to the Town and state regulations in effect at the time of the issuance of the certificate or permit. Where applicable, a building permit or sign permit will be required.

***** Upon consultation with the applicant, the applicant chooses to pursue _____ zoning designation.**

_____ Applicant Signature	_____ Date	_____ Property Owner Signature	_____ Date
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FOR OFFICE USE ONLY

Date Application/Materials Submitted: _____ Received By: _____

Approved: Yes No Date Approved: _____ Approved By: _____

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☆☆☆ All application forms must be accompanied by a map/site plan drawn by a professional engineer, a registered land surveyor or by the County mapping office and turned in by the 15th of the month to be considered by the appropriate Town Board(s) the following month. An applicant must pay the application fee before a request is put on the agenda.

Town of Carthage Unified Development Ordinance

Article 5. Amending the Development Ordinance

Section 100.41. Purpose

The Board of Commissioners may see need to amend the Development Ordinance from time to time to address the changing needs of the community or seek consistency with an adopted Comprehensive Land Development Plan.

Section 100.42. Types of Amendments

Amendments may be to the text of the ordinance or take the form of map amendments, often known as rezoning. The Town of Carthage recognizes three types of amendments.

- 1. Text Amendments.** This type of amendment is used when a party chooses to modify the actual text of the ordinance. This is a legislative decision by the Board of Commissioners.
- 2. Map Amendments.** This type of amendment is used when a party chooses to change a zoning district from one type to another. Often known as a straight rezoning, it recognizes that the change in district allows for all uses allowed within a given zoning district. It cannot be conditioned in any way. This is a legislative decision by the Board of Commissioners.
- 3. Conditional Zoning (CZ).** Conditional district zoning is an amendment process that is both a map amendment and a text amendment. It is a legislative decision by the Board of Commissioners, but it allows for the placement of conditions and/or limits on the approval.

Section 100.43 Initiation of Amendment

Text and Map Amendments to the Development Ordinance may be initiated by any party including: elected officials, the planning board, staff or citizens. Conditional District Zoning must be initiated at the property owner's request.

Section 100.44 Amendment Procedure for Text Amendments and Map Amendments.

- 1. Petition for Amendment**
- A petition for text amendment or map amendment shall be filed on application forms provided by the town and accompanied by the appropriate fee. If the request is filed from within the local government, it may be initiated by a staff report. The applicant is encouraged to review the Town of Carthage adopted Land Use Plan
- and any other relevant long range plans such as the Bicycle and Pedestrian Plan for consistency with their petition.
- 4. Call for Public Hearing or Decision to Summarily Dismiss**
- The Board of Commissioners shall set a date for public hearing of any petition for amendment. At that time, the Board may determine that they do not wish to consider amending the Zoning Map or Land Development Ordinance. If such is the case, the Board may vote to summarily dismiss the case and not conduct a public hearing. The reason the case shall not be heard is to be included in the public record of the meeting.
- A proposed zoning map amendment may not be reconsidered and may be summarily dismissed if an amendment for the same property is submitted again within one year's time unless the Board of Commissioners determines that there is a compelling reason to rehear a map amendment.
- In setting the public hearing date, sufficient time shall be provided to allow for input from the Planning Board and for

all public notice requirements to be met.

8. Public Notice

- Published Notice.
 1. The town shall publish two notices, the first not less than 10 days or more than 25 days before the hearing and the second in a separate calendar week in a newspaper of general circulation. The content shall include the purpose of the meeting, the date, time and location. If the public hearing involves a map amendment, sufficient information shall be provided to locate the property for which the amendment is proposed.
- Mailed Notice (for map amendments).
 1. First class mailed notice is required for map amendments and must be sent to all abutting property owners as well as the owner of the property for which the amendment is being requested as identified in the Moore County Tax Registry. The notice must be mailed at least 10 days but not more than 25 days before the hearing. The notice shall include the content of the published notice as well as a location map of the property proposed for rezoning.
 2. Staff shall retain a copy of the mailing, a list of recipients, and certification by the person making the mailing as to when it was done.
- Posted Notice (for map amendments).
 1. A notice of the proposed hearing shall be posted on the affected site. If the property is greater than 10 acres and fronts on more than one road, a notice shall be posted on each road.
- Notice to Property Owner (for map amendments).
 1. If a petition for map amendment is initiated by someone other than the owner of the property or the town, notice of the hearing shall be mailed to the owner. Although not required, the town shall also forward a copy of the petition to the owner of the property.
 - a. **Large scale map amendments.**

Whenever a rezoning has the potential to affect more than 50 properties with at least 50 different property owners, the town may choose to use expanded published notice instead of individual mailed notice. The expanded public notice shall include two half page ads published not less than 10 days nor more than 25 days before the hearing with the second in a separate calendar week in a newspaper of general circulation. The site shall also be posted and mailed notices shall be sent to property owners residing outside of the newspaper's area of circulation.
 - b. **Planning Board**

All proposed Development Ordinance amendments must be given review by the Planning Board for a recommendation to the Board of Commissioners. They are not required to conduct a public hearing but they are encouraged to accept public input. The Planning Board shall evaluate all proposals for consistency with any adopted long range plans and adopt a statement of consistency with said plans before voting to recommend approval or denial of the request.
 - c. **Board of Commissioners**

The Board of Commissioners shall conduct a public hearing regarding the petition. The Planning Board recommendation and Statement of Consistency shall be provided to the Board of Commissioners. The Board of Commissioners shall consider the Planning Board recommendation, but they are not bound by it. The Board of Commissioners may choose to make their decision to approve or deny at the same meeting or a subsequent meeting. The Board shall first adopt a Resolution of Consistency with the adopted Land Use Plan and other long range plans then the Board shall vote on the petition. The Resolution of Consistency may take one of three forms consistent with N.C.G.S 160A-383.

 - i. Approve the amendment and describe its consistency with the adopted Land Use Plan.
 - ii. Reject the zoning amendment and describe its inconsistency with the adopted Land Use Plan.
 - iii. Approve the amendment and deem it a modification of the adopted Land Use Plan
 - iv. The Board shall describe why the action taken is reasonable and in the public interest. In certain circumstances, it may be beneficial for the Planning Board to convene with the Board of Commissioners during the public hearing prior to making their recommendation. Once the hearing is conducted, the Planning Board may then reconvene to make their recommendation the same day or at a subsequent Planning Board meeting for transmittal to the Board of Commissioners.

Section 100.45 Amendment Procedure for Conditional Zoning

A petition for conditional zoning shall be filed on forms provided by the town and accompanied by the appropriate fee. It is a legislative process that shall only be initiated upon the owner's request and shall follow the procedures of Section 100.44 1 through 5 subject to the following.

- A. A petition for conditional zoning must include, at a minimum, a site plan that complies with the requirements of Article 9, 100.56A – 100.67 of General Use District Standards and Article 11, Overlay Districts as well as a narrative that specifies any proposed rules, regulations, and conditions and any other proposed ordinances that will govern the development and use of the property in conjunction or in lieu of the requirements of the Carthage Development Ordinance.
- B. The applicant may rely in the first instance on the recommendations of the Administrator as to whether more or less information should be submitted.
- C. In the course of evaluating the proposed use, the Administrator, Planning Board or the Board of Commissioners may request additional information from the petitioner. This information may include the following:
 - 1. Proposed number and general location of all structures;
 - 2. Proposed screening, buffers and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;
 - 3. Existing and approximate proposed topography, if available, at two-foot contour intervals or less;
 - 4. Scale of buildings relative to abutting property;
 - 5. Height of structures;
 - 6. Significant features of proposed development such as enhanced buffers or external setbacks, greenways and open space;
 - 7. Approximate locations of roads and points of ingress and egress;
 - 8. Information regarding availability of utilities to serve the project;
 - 9. Proposed number and location of signs; and
 - 10. Any other information needed to demonstrate compliance with this chapter.
- D. The site plan and any supporting text shall constitute part of the petition for all purposes under this part.
- E. The Planning Board and applicant shall conduct a public meeting for the purpose of soliciting input regarding the petition and its effect on the community. The public meeting may be included in the public hearing notice or noticed separately to the community using one of the following:
 - 1. A community meeting sign shall be posted on the property with a number to call for information regarding date, place and time.
 - 2. A mailed notice shall be sent to adjacent property owners. The cost of the notices shall be borne by the applicant.
 - 3. Published notice one week before the meeting in a newspaper of general circulation may be used. The cost shall be borne by the applicant.
- F. One electronic copy of the materials shall be provided along with one printed set no larger than tabloid paper size. If the applicant chooses to provide larger scaled materials, 11 copies shall be provided.
- G. Conditions on Approval of Petition and Effect
 - 1. In approving a petition for the reclassification of property to a conditional zoning district, the Planning Board may recommend and the Board of Commissioners may request that reasonable and appropriate conditions be attached to approval of the petition.
 - 2. Conditions and site-specific standards shall be limited to those that address the conformance of the development and use of the site to town ordinances and all relevant officially adopted plans. Conditions and site-specific standards may also address the impacts reasonably expected to be generated by the development or use of the site. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space, and other matters that the Board of Commissioners may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the town, county or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The Board of Commissioners may approve conditions that vary, lower or impose higher standards than those that would ordinarily apply were the property at issue rezoned to something other than a conditional zoning district.
 - 3. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners. Only those conditions mutually approved by the Board of Commissioners and the petitioner may be incorporated into the petition.

4. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the town Zoning Map.

H. Modification of Approval

Changes to an approved petition for conditional zoning or to the conditions attached to an approved petition for conditional zoning shall be treated the same as amendments to the text of this ordinance or to the official Zoning Map and shall be processed in accordance with the requirements of this article. Notwithstanding the foregoing, the Board of Commissioners may, as part of the conditions imposed on the conditional district, include a list of modifications that may be approved by Administrator or other appropriate town staff without further review by the Town Board.

Following approval of conditional zoning, the property shall be defined on the town Zoning Map by the appropriate district designation plus CZ to identify that a conditions also apply. Such amendments are considered part of the Development Ordinance and will be appended to the Development Ordinance.

Section 100.46 Requirements for all Amendment Types

A. Spot Zoning

All types of zoning amendments as listed in Section 100.42 that include a map amendment shall undergo evaluation for a spot zoning determination. Spot zoning is the practice of zoning a relatively small area, usually owned by a single entity differently from the surrounding property. Spot zoning is not illegal but the burden is on the town to demonstrate that the request is reasonable. Reasonableness is demonstrated by evaluating the following:

1. The size of the tract in question.
2. Compatibility with the adopted land use plan.
3. Compatibility with nearby and adjacent uses.
4. Demonstrating that the applicant is not unduly favored to the detriment of nearby property owners.

B. Written Statements

Written statements received from the public by the Town Clerk prior to a public hearing shall be provided to the Board of Commissioners. If the comments are submitted regarding a conditional use district amendment, only the names and addresses of the commenters and not the substance of the comments may be provided to the Board before the hearing. The evidentiary quasi-judicial conditional use district hearing requires that the parties be available for cross examination during the hearing.

C. Notice to NCDOT

Pursuant to NCGS 136-153 (Zoning Changes), the Administrator shall give written notice to the Department of Transportation of the establishment or revision of any industrial zone within six hundred and sixty (660) feet of interstate or primary highways. Notice shall be by registered mail sent to the offices of the N.C. Department of Transportation in Raleigh within fifteen (15) days after the effective date of the zoning change or establishment.

Sec. 100.46A Maximum Number of Application

No application for the same zoning district applicable to the same property or any part thereof shall be filed until the expiration of twelve (12) months from:

1. The date of final determination by the Board of Commissioners; 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.

Fees submitted for withdrawal cases are not refundable.

1. To investigate violations of the provisions of this Ordinance and enforce actions necessary for correction thereof. To enter upon private property at reasonable times in the carrying out of the duties.
2. To make and keep all records necessary and appropriate to the office including a record of issuance and denial of all Development Permits and Conditional Use Permits, Amendments, Variances, Appeals and receipt of complaints of violations of this Ordinance and action taken on the same.
3. To appoint agents to act on the Administrator's behalf.