

Unified Development Ordinance (UDO) Text Amendment - ZTA 22-04

STAFF REPORT

APPLICATION SUMMARY
Request:
To consider text amendments to Chapter 4 (Administrative Agencies / Functions)
Applicant(s):
Gaston County Planning Board

OVERVIEW
Background:
The Unified Development Ordinance (approved April 24, 2008) sets forth procedures for amendment procedures in Chapter 5, requiring a recommendation from the Planning Board, with final action on said amendments to commence at the conclusion of a public hearing by the County Commission. The proposed amendments include language to better reflect current and best administrative procedures.
Planning Board Recommendation:
The Planning Board unanimously recommended approval of this request.

Attachments: Application and Clean Version of Proposed Text Amendments



GASTON COUNTY

Department of Planning & Development Services

Street Address: 128 W. Main Avenue, Gastonia, North Carolina 28052

Phone: (704) 866-3195

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GASTON COUNTY TEXT AMENDMENT APPLICATION

Complete by either typing or printing legibly in black or blue ink

Applicant

Planning Board (Administrative)

Board of Commission (Administrative)

ETJ

A. *APPLICATION INFORMATION

Application Number: TA 22-04

Name of Applicant: Gaston County Planning Board

(Print Full Name)

Mailing Address: 128 W. Main Ave. Gastonia, NC 28053

(Include City, State and Zip Code)

Telephone Numbers: 704-866-3195

(Area Code) Business

(Area Code) Home

** If the applicant and property owner are not the same individual or group, the Gaston County Zoning Ordinance requires written consent from the property owner or legal representative authorizing the proposed Text Amendment Application. In addition, the authorization shall be notarized. The following two (2) sections pertain to property information, and specifics of the proposal as either a text change or a new use.*

B. PROPERTY INFORMATION (if applicable)

Physical Address or General Street Location of Property: _____

Tax Map Identification: Parcel (s) _____

Parcel (s) _____ Parcel (s) _____

Acreage of Parcel(s): _____ +/- Acreage to be Rezoned: _____ +/- Current Zoning: _____

Proposed use(s) to be added to text: _____ Proposed Zoning District: _____

C. PROPOSED TEXT CHANGE (specify section of Ordinance)

Chapter 4 (Administrative Agencies / Functions) - entire chapter

Describe proposed new use (provide an attachment if necessary).

Complete update of Chapter 4 to better reflect current and best administrative procedures.

APPLICATION CERTIFICATION

(Circle)

(I/We), the undersigned being the property owner/authorized representative, hereby certify that the information submitted on the application and any applicable documents is true and accurate.

Signature of property owner or authorized representative

1/19/2022

Date

OFFICE USE ONLY

OFFICE USE ONLY

OFFICE USE ONLY

Date Received: _____ Application Number: TA: _____ Fee: \$ _____

Received by Member of Staff: JK (Initial) Date of Payment: NA Receipt Number: _____

Copy of Plot Plan or Area Map

Copy of Deed

Notarized Authorization

Payment of Fee

Public Hearing Date: _____ Planning Board Recommendation: _____ Commissioner's Decision: _____



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SECTION 4.1 SUMMARY OF ORDINANCE ADMINISTRATION AND REVIEW ROLES

SECTION 4.1.1 ORDINANCE ADMINISTRATION AND REVIEW BODIES

The following persons and entities shall have roles in administering the provisions of the Ordinance:

- A. County Board of Commissioners (BOC)
- B. Administrator and any designees (Public Officers)
- C. Planning Board (PB)
- D. Board of Adjustment (BOA)
- E. Technical Review Committee (TRC)

SECTION 4.1.2 SUMMARY OF ADMINISTRATION AND REVIEW ROLES

Table 4.1-1 summarizes the review and decision-making responsibilities of the entities that have specific roles in the administration of this ordinance. The section numbers shown indicate the section of this Ordinance where specific procedures are detailed.



TABLE 4.1-1 – SUMMARY OF ORDINANCE AND ADMINISTRATION AND REVIEW BODIES				
PROCEDURE	SECTION	TRC REVIEW REQUIRED	FORMAL RECOMMENDATION	FINAL DECISION
Text Amendment			Planning Board	Board of Commissioners
General District Rezoning			Planning Board	Board of Commissioners
Conditional District Rezoning		Yes	Planning Board	Board of Commissioners
All Major Subdivision Preliminary Plats		Yes		Administrator
All Major Subdivision Final Plats		Yes		Administrator
Minor Subdivision				Administrator
Special Use Permit		Yes		Board of Adjustment
Watershed High Density Permit				Watershed Board
Zoning/Flood/Subdivision Variance				Board of Adjustment
Watershed Variance				Watershed Board

*Any permit not listed in this table shall be approved administratively

*Please see section listed in table for Appeals Process

SECTION 4.1.3 CONFLICTS OF INTEREST

Per G.S. 160D, governing board members, appointed board members, and administrative staff shall not vote on any advisory, legislative, or quasi-judicial decisions regarding development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. Members shall not vote on any decisions if the owner of the subject property is a person with whom the member has a close familial, business, or other associational relationship.

SECTION 4.2 BOARD OF COMMISSIONERS

SECTION 4.2.1 POWERS AND DUTIES

The governing board shall have the following powers and duties:

- A. To appoint members to the Planning Board and the Board of Adjustment per NCGS 160D.
- B. To initiate, adopt, and amend a Comprehensive Land Use Plan.
- C. To initiate amendments to the text of this Ordinance.
- D. To review recommendations from the Planning Board and make final decisions on applications for amendments to the text of this Ordinance pursuant to NCGS 160D-604.



- E. To adopt and amend a schedule of fees for the procedures addressed in this Ordinance.
- F. To hear/review and either approve, approve with conditions, or deny amendments to the Official Zoning Map after a recommendation has been submitted by the Planning Board pursuant to NCGS 160D-604.

SECTION 4.3 UDO ADMINISTRATOR

SECTION 4.3.1 ESTABLISHMENT AND DUTIES

The provisions of this Ordinance shall be administered and enforced by the Unified Development Ordinance Administrator (commonly referred to as the “UDO Administrator” or the “Administrator”_ and any other officials designated by the County for the administration of this Ordinance. The County shall have the authority to appoint one (1) or more persons to serve as the UDO “Administrator.”

SECTION 4.3.2 APPEALS FROM THE DECISIONS OF THE ADMINISTRATOR

Appeals of decisions made by the Administrator shall be made to the Board of Adjustment in accordance with Section 5.13 of this Ordinance.

SECTION 4.4 PLANNING BOARD

Pursuant to NCGS 160D-604 there is hereby established a planning agency known as the Gaston County Planning Board.

SECTION 4.4.1 POWERS AND DUTIES

The Planning Board shall have the following powers and duties:

- A. To prepare or hear, review, and make recommendations on the content of a comprehensive plan, land use plan, and other plans that address land use and planning related issues and to submit such plans to the Board of Commissioners.
- B. To initiate or hear, review, and make recommendations to the Board of Commissioners for amendments to the text of this Ordinance or to the Official Zoning map.
- C. To adopt rules of procedure for the conduct of its meetings and for any other purposes deemed necessary and consistent with the Ordinance and all other applicable local and State regulations.
- D. To provide recommendations on map changes to the Official Zoning Map text changes to this Ordinance.

SECTION 4.4.2 MEMBERSHIP

- A. The Board of Commissioners shall appoint ten (10) regular members to the Planning Board as provided in this Ordinance. Except in the case of filling a vacancy, each appointment shall be for a term of three (3) years.



- B. The members of the Planning Board shall elect one (1) of their members as Chair and one (1) as Vice-Chair. In the absence of the Chair, the Vice-Chair shall act as Chair and shall have all powers of the Chair. In the absence of both, the Board shall elect a temporary chair to conduct the meeting. The Chair, or in absence of the Chair's absence the Vice-Chair, shall be in charge of all proceedings before the Board, and take actions necessary to preserve the order and integrity of all proceedings before the Board.

SECTION 4.4.3 SECRETARY

A secretary shall be appointed to serve the Planning Board. The Secretary shall keep Planning board minutes showing the vote of each member on all voting matters. In addition, the Secretary shall maintain all records of Planning Board meetings, hearings, and proceedings, as well as the correspondence of the Planning Board. All minutes, records, and files shall be housed in the office of the Building and Development Services Department as a public record.

SECTION 4.4.4 STAFF

The Director (or their designee) shall serve as the professional staff to the Planning Board.

SECTION 4.5 BOARD OF ADJUSTMENT

SECTION 4.5.1 ESTABLISHMENT AND DUTIES

Pursuant to NCGS 160D-302, a Board of Adjustment is hereby established. The duties of the Board of Adjustment shall be as follows:

- A. To hear and decide appeals from the decisions of the Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the Administrator in the enforcement of this Ordinance pursuant to Section 5.13.
- B. To hear and decide on applications for variances from the terms of this Ordinance pursuant to section 5.14.
- C. To interpret the Official Zoning Map and shall pass upon disputed questions of lot lines or district boundary lines and similar questions that may arise in the administration of this Ordinance.
- D. To adopt rules of procedures for the conduct of its meetings, so long as such policies and procedures are consistent with this Ordinance and all other applicable local and state regulations.
- E. To hear and decide applications for Special Use Permits per Section 5.11
- F. The Board of Adjustment shall exercise any other powers as granted by this Ordinance. In carrying out its duties, the Board of Adjustment may subpoena witnesses and compel the production of evidence.

The Board of Adjustment shall not have power, jurisdiction, or authority to amend any Ordinance or grant use variances.



SECTION 4.5.2 QUASI-JUDICIAL PROCEDURES

The consideration and final decision on any application for an appeal, variance, special use permit, or interpretation, as provided above, shall be made by the Board of Adjustment only after a quasi-judicial evidentiary hearing has been properly advertised and convened. The board shall follow quasi-judicial procedures as specified in NCGS 160D-406 when making quasi-judicial decisions.

SECTION 4.5.3 MEMBERSHIP

The Board of Adjustment shall consist of seven (7) regular members and two (2) alternate members, each appointed by the Board of Commissioners. Membership shall be for three (3) year terms. When appointing the original members, the Board of Commissioners may appoint certain members for less than three-year terms so that all members' terms shall not expire at the same time. All members of the Board of Adjustment shall be residents of Gaston County who reside in the area in which the UDO as jurisdiction as indicated on the Official Zoning Map. Alternative members who attend any regular or special meeting of the Board and who serve in the absence of any regular member at any such meeting shall have and exercise all the powers and duties of a regular member.

SECTION 4.5.4 SECRETARY

A secretary shall be appointed to serve the Board of Adjustment. The Secretary shall keep Board of Adjustment minutes showing the vote of each member on all voting matters. In addition, the Secretary shall maintain all records of Board of Adjustment meetings, hearings and proceedings, as well as the correspondence of the Board. All minutes, records, and files shall be housed in the office of the Building and Development Services Department as public record.

SECTION 4.5.5 STAFF

One (1) or more persons shall be appointed to serve as the staff to the Board of Adjustment.

SECTION 4.5.6 QUORUM

No meeting of the Board of Adjustment may be called to order, nor may the board of Adjustment transact any business not requiring a public hearing without a quorum consisting of a majority of the appointed regular membership of the Board of Adjustment.

SECTION 4.5.7 PUBLIC HEARING NOTIFICATION

The county shall give notice of all Board of Adjustment evidentiary hearings. Per NCGS 160D-406, notice of evidentiary hearings shall e mailed to the person/entity whose appeal, application, or request is the subject of the hearing; the owners of the property that is the subject of the hearing if the owner di not initiate the hearing, to the owners of all parcels of land abutting the parcel of land that is subject to the hearing; and any other persons or entities to receive notice as provided by this Ordinance. Notices must be deposited in the mail at least ten (10) days, but no more than twenty-five (25) days, prior to the date of the hearing. Within that same time period, staff shall post a notice of the hearing on the site that ls the subject of



the hearing or on an adjacent street of highway right-of-way. Note: The Administrator may waive the sign-posting requirement or relocate the placement of the sign(s) where the literal application of this provision would serve no meaningful purpose.

SECTION 4.5.8 BOARD OF ADJUSTMENT DECISION

- A. The Board of Adjustment shall hold a quasi-judicial public hearing on an application no later than thirty (30) working days after a complete application has been filed with the Administrator. The Board of Adjustment shall decide on the matter within a reasonable amount of time.
- B. The concurrent vote of four-fifths (4/5) of the voting members of the Board of Adjustment shall be necessary to grant a variance. A majority vote of the members shall be required to decide on any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant members of the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the required majority if there are no qualified alternatives available to take the place of such members. In all matters coming before the Board of Adjustment, the applicant shall have the burden of providing clear, competent, and material evidence in support of the application.
- C. All decisions of the Board of adjustment shall be filed with the Administrator. A copy of the decision shall be sent to the applicant (and in the case of map interpretations, to all owners of property that give rise to the interpretation request) within ten (10) working days of the date of decision to the Board of Adjustment.

SECTION 4.5.9 APPEALS FROM THE BOARD OF ADJUSTMENT / REHEARING

- A. An application for a rehearing shall be made in the same manner as provided for in the original hearing within a period of fifteen (15) days after the decision of the Board of Adjustment is filed in the office of the Administrator. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. The Board of Adjustment shall deny a rehearing, if, in its judgment, such change in facts, evidence or conditions has not been proven. A public hearing shall not be required to be held by the Board of Adjustment to consider holding such a rehearing. Approval of said consideration, however, shall require an affirmative vote of at least 4/5 of the Board of Adjustment’s voting membership. In the event that the Board of Adjustment finds that a rehearing is warranted, it shall thereupon proceed as in the original hearing.
- B. Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application affecting all or any portion of the same property (ies) may not be filed for a period of one (1) year after the date of denial of the original application.
- C. Every decision of the Board of Adjustment shall be subject to review by the Superior Court of Gaston County by proceedings in the nature of certiorari. Any petition for



review by the Superior Court shall be duly verified and filed with the clerk of Superior Court within thirty (30) days after the decision of the Board of Adjustment is filed in the office of the Administrator, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Administrator or the chairman of the Board of Adjustment at the time of the Board's hearing of the case, whichever is later.

SECTION 4.6 TECHNICAL REVIEW COMMITTEE

SECTION 4.6.1 POWERS AND DUTIES

The Technical Review Committee (TRC) shall review plats and plans based on standards set forth in this ordinance and make recommendations as shown in Table 4.1-1.

SECTION 4.6.2 MEMBERSHIP

- A. The TRC shall be comprised of the following persons (if such person is not listed by his/her specific title, then the County Manager, or the head of the agency listed below, or their designee, shall have the authority to appoint one (1) person to serve on the TRC.
 - 1. Gaston County Emergency Management
 - 2. Gaston County Building & Development Services
 - 3. Gaston County Schools
 - 4. Gaston County Environmental Health Department
 - 5. Gaston Urban Area Metropolitan Planning Agency or Rural Planning Organization
- B. Such persons shall serve on the TRC at the pleasure of the Manager or their respective agency head, provided, however, that the TRC shall at all times consist of at least (1) person from each agency listed above.

SECTION 4.6.3 REVIEWS

The TRC shall review all plans that will be presented in a public hearing and subdivision plats. Plans shall be sent to all TRC members for review and members shall have ten (10) working days to submit comments. Some plans may be required to be re-reviewed by the TRC after the public hearing.