

Staff Report. Proposed Text Amendments

Amendments proposed to Chapter 30 of the Oak Code of Ordinances to implement recommendations of the adopted Oak Ridge Future Land Use Plan Update, to ensure compliance with state statutes, and to modernize and correct inconsistencies. Proposed amendments include but are not exclusive of Article IV Division 2 Planning and Zoning Board, Article V Enforcement, Article VII Zoning (to revise Rural Preservation District and Rural Multifamily District, and create a new Town Core- Residential District), Section 30-111 Establishment of Official Zoning Map, Section 30-301 Zoning map and text amendments, Section 30-302 Conditional use districts and special use permits, and Section 30-700 Assurance of completion of improvements.

The staff report is organized in the same manner as the proposed amendment. The text of the proposed amendment is attached to this report, with a corresponding staff comment for each section included below:

Staff comments:

Section 30-35: This amendment increases the number of property owners directly notified by the Town for a public hearing request, including rezonings, special use permits, variances, etc.

Section 30-111: Rather than printing large paper copies of an Official Zoning Map, many jurisdictions now maintain a digital zoning map. A text amendment is necessary to establish a digital “official zoning map” and to establish the procedures necessary to maintain it. The proposed amendment modernizes the Section authorizing the establishment of an official zoning map.

Section 30-168: A public hearing for a special use permit is a quasi-judicial proceeding requiring a formal evidentiary hearing by the Town Council for approval. Unlike typical legislative rezoning decisions, there is no statutory mandate for the Planning and Zoning Board to hold a separate quasi-judicial public hearing in order to provide a recommendation to Town Council. In fact, the UNC School of Government has argued that it can actually be detrimental to hold separate public hearings for a request of this nature. The proposed text amendment removes the Planning and Zoning Board public hearing for a special use permit request prior to the Town Council public hearing.

Secondly, this section is amended to assign the Planning and Zoning Board the responsibility of serving as the Tree Board. This amendment formalizes Town Council’s directive from the April 7 Town Council meeting.

Article V Enforcement: The Town of Oak Ridge has consistently enforced violations of the Development Ordinance strictly as civil matters through notice, imposition, and collection of civil penalties, subject to

other civil enforcement remedies such as injunctive relief, and has avoided the prosecution of such violations as criminal offenses. At the recommendation of the Town Attorney, the proposed text amendment codifies this policy and removes criminal prosecution as an option under the Ordinance.

Section 30-301:

1. Policy 1.1.1 of the Oak Ridge Future Land Use Plan recommends that the Town require an environmental inventory and on-site meeting with Town staff prior to submittal of a residential rezoning application.
2. The amendment also requires applicants for rezoning to conduct community outreach, which is something the Town has strongly encouraged in the past. The amendment leaves the applicant significant flexibility to conduct outreach deemed most appropriate for the request.
3. Pursuant to Session Law 2015-160, Section 1, adopted by the General Assembly of North Carolina in the 2015 session, the following changes to the Oak Ridge Development Ordinance are proposed:
 - a) Section 30-301(9) Zoning map and text amendments- protest petitions. The entire section on protest petitions is removed from the Oak Ridge Development Ordinance. The State has revoked the ability of citizens to file protest petitions for rezoning requests, which if filed properly had required supermajority votes of Council for approval.
 - b) Section 30-301(8)(c) Zoning map and text amendments- voting. A reference to the protest petition section has been removed.

Section 30-302: See Section 30-168.

Article VII:

1. This proposed text amendment addresses the recommendations of OBJECTIVE 1.1 in the adopted Oak Ridge Future Land Use Plan. In addition, other changes are proposed to help better meet the intent of the RPD District and to improve process. Specifically, the text amendment proposes the following:
 - a. Removes all potential commercial uses from the RPD District;
 - b. Simplifies the maximum lot calculation;
 - c. Makes minor changes to lot dimensional requirements;
 - d. Improves language regarding street connectivity;
 - e. Adds scenic vistas and other priorities from the Land Use Plan to the rural character preservation areas;
 - f. Encourages open space connectivity and clarifies trail/greenway design and maintenance;
 - g. Assigns final approval of Unified Development Plan (a technical review) to P&Z; and
 - h. Requires submittal of an Environmental Inventory and staff site visit prior to any residential rezoning request over ten acres.

2. Secondly, this section also addresses OBJECTIVE 2.1 in the adopted Oak Ridge Future Land Use Plan, which accommodates densities up to two units per acre in the Town Core. Specifically, the amendment proposes the following:
 - a. Establishes Town Core- Residential (TC-R) as a new zoning district;
 - b. Removes Rural Multifamily (RM) as a zoning district;
 - c. Replaces RM with TC-R in the Permitted Use Table, with the following amendments:
 - i. Permits some standard agricultural, residential, and accessory uses that were omitted from the RM District, to provide consistency with other residential districts;
 - ii. Permits congregate care and group care facilities with the same development standards as the GO-M district;
 - iii. Removes multi-family dwelling as a permitted use. The Oak Ridge Future Land Use Plan distinguishes between allowing townhouses and twin homes (attached single-family), and prohibiting apartments (multi-family);
 - d. Establishes minimum lot sizes and setbacks for the TC-R district;

Section 30-799: Session Law 2015-187, adopted by the North Carolina General Assembly, gives clarity and imposes restrictions on the authority for subdivision performance guarantees. The new law sets explicit acceptable financial instruments from which a developer can choose (local government cannot narrow or expand the list). It also codifies the process for extensions should the improvements not be constructed within the time limits of the performance guarantee.

Section 30-996: see Article V Enforcement

Section 30-1298: see Article V Enforcement

Section 30-1300: see Article V Enforcement

Appendix D: see Section 30-168.

PLANNING AND ZONING BOARD RECOMMENDATIONS :

Motion to Approve by: Ms. Paslaru

MOTION TO APPROVE INCLUDED RECOMMENDATION TO CHANGE PROPOSED MINIMUM LOT SIZE IN RPD DISTRICT FROM 15,000 SQUARE FEET TO 20,000 SQUARE FEET.

Seconded by: Mr. Leybourne
Vote 6 to 0 in favor of the motion.

VOTE :	Baker	yes
	Leybourne	yes
	Paslaru	yes
	Stafford	yes
	Stoudemire	yes
	Wilson	yes

TOWN COUNCIL DECISION :

Motion to Approve/Deny by:
Seconded by:
Vote ____ to _____ in favor of the motion.

VOTE :	Sullivan	_____
	McClellan	_____
	Kinneman	_____
	Nodine	_____
	Stone	_____