

**ORDINANCE NO. (2020) 171 TC 442
TC-10-20 Text Amendment Procedures**

AN ORDINANCE TO REVISE THE PROCEDURES FOR REVIEW AND APPROVAL OF UDO TEXT AMENDMENTS AND ZONING CONDITION AMENDMENTS

WHEREAS, the Unified Development Ordinance (“UDO”) currently requires that all proposed amendments to the text of the UDO be authorized by the City Council; and

WHEREAS, requests for such authorization are made during the public comment portion of City Council meetings, providing City Administration insufficient time to adequately evaluate or comment on such requests; and

WHEREAS, recent changes in state law now classify amendments to conditions attached to conditional zoning districts as text amendment rather than map amendments; and

WHEREAS, the City Council finds that it is in the public interest that amendments to zoning conditions be processed by City Administration without prior authorization from City Council; and

WHEREAS, the City Council finds it in the public interest to establish a procedure for City Administration to review all non-zoning condition amendment requests prior to them being presented to City Council for authorization;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:

Section 1. Section 10.2.3 of the Part 10 Raleigh Unified Development Ordinance, UDO Text Amendments, is hereby amended by adding the following language shown in the underlined and removing the language shown in strikethrough:

Sec. 10.2.3. UDO Text ~~Amendment~~ Changes

A. Applicability

1. Text changes are legislative decisions. There are two types of text changes:
 - a. a text change to the provisions of this UDO (a “TC”); and
 - b. a text change to a conditional use zoning condition, including an amendment to any Planned Development Master Plan (a “TCZ”). ~~The City Council shall consider amendments to the text of this UDO.~~
2. Requests for TC’s may be made by the City Council, the City staff or members of the public. ~~Amendments to the text of this UDO shall be made in accordance with the provisions of this section.~~
3. Requests for TCZ’s can only be made by the owner of the property that is the subject of the TCZ. A request for a TCZ shall follow the procedures for conditional use rezoning applications under *Sec. 10.2.4.*

B. Pre-Application Conference

Before a member of the public may submit ~~submitting~~ an application for a UDO text amendment change, ~~an~~ the applicant shall schedule a pre-application conference with the Planning Director to discuss the procedures, standards and regulations required for approval. This requirement may be waived at the discretion of the Planning Director.

C. Application Requirements

1. An application for a UDO text amendment TC shall be submitted in accordance with the general application requirements of *Sec. 10.2.1.B*.
2. A request for a TC by a member of the public must obtain Council authorization. To initiate that process, the applicant must submit an application describing the request to City Planning. Within 90 days of submission, the Planning Director shall provide a report and recommendation and place the request on the City Council's agenda. If Council authorizes the request, the applicant shall thereafter follow the process set forth in this Section. A UDO text amendment request by a member of the public also requires authorization by the City Council.
3. ~~City Council may reject the petition or direct further consideration of the UDO text amendment request in accordance with *Sec. 10.2.3.D*.~~

D. Approval Process

1. Planning Director Action – ~~Within 45 days of Council authorization, t~~The Planning Director shall review the TC application in accordance with *Sec. 10.2.3.E* and provide a report and recommendation to the Planning Commission. ~~The Planning Director may request additional time from the City Council.~~
 - a. ~~The Planning Director shall provide a report and recommendation to the City Council when the Council considers authorizing a public hearing on a UDO text amendment.~~
 - b. ~~Upon submittal, the Planning Director shall review the application for a UDO text amendment in accordance with *Sec. 10.2.3.E* and provide a report and recommendation to the Planning Commission within 45 days of submittal of a completed application. The Planning Director may request additional time from the City Council.~~
2. Planning Commission Action
 - a. Upon acceptance of the UDO text amendment TC application, the Planning Commission or one of its committees shall hold a legislative hearing on the request. ~~public meeting to discuss the UDO text amendment.~~ Public notice of the legislative hearing ~~text amendment~~ shall be provided in accordance with *Sec. 10.1.8*.

- b. When conducting a review of a TC application, the Planning Commission shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted, and any other applicable adopted plan. The Planning Commission may refer the application to a work session of the Planning Commission or to 1 of its committees for additional consideration.
- c. ~~Within 90 60 days after receipt of the proposed amendment, the Planning Commission shall make its recommendation provide a written report to the City Council. Within this time period, the Planning Commission may request extensions of time which may be granted by the City Council. If no recommendation is made within this time period and if no extension is granted, the City Council may nonetheless take action on the application without further involvement of the Planning Commission.~~
- d. The Planning Commission's written report to the City Council shall contain its recommendation, which addresses the proposed text amendment's plan consistency and other matters it deems appropriate. A recommendation by the Planning Commission shall include the adoption of a statement describing how the Planning Commission considers the action taken to be consistent with the Comprehensive Plan, reasonable and in the public interest.
- e. ~~The Planning Commission shall make its recommendation to the City Council in writing. The Planning Commission shall recommend that the request be approved, approved as revised, denied or request further study.~~

3. ~~Public Hearing by City Council~~ Legislative Hearing and Action

- a. Following the recommendation of the Planning Commission or expiration of the applicable Planning Commission review period without a recommendation, the City Council shall conduct a ~~public~~ legislative hearing.
- b. Notice of the public hearing shall occur within 60 days of receiving the request from the Planning Commission's written report.
- ~~b.~~ Notice of the public hearing shall be given in accordance with Sec. 10.1.8.
- c. At the hearing, the Planning Director shall present the request, including the recommendation and comments of the Planning Commission, if any. If the request was submitted by a member of the public, those in favor of the TC will be allowed a total of 8 minutes to explain their support and those opposed shall be allowed a total of 8 minutes to explain their opposition. The Council, in its discretion, may grant an equal amount of additional time to each side.
- d. The City Council shall approve, approve as revised, deny or send the proposed TC back to the Planning Commission or Planning Director for additional consideration.
- e. When adopting or rejecting any TC, the City Council shall approve a brief statement describing whether its action is consistent or inconsistent with the Comprehensive Plan.

4. ~~City Council Public Hearing and Action~~

- ~~a. Before taking final action on a UDO text amendment, the City Council may consider the recommendations of the Planning Commission and Planning Director and comments made at the public hearing.~~
- ~~b. The City Council shall approve, approve as revised, deny, send the proposed UDO text amendment back to the Planning Commission or Planning Director for additional consideration.~~
- ~~c. Approval by the City Council shall include the adoption of a statement describing how the City Council considers the action taken to be consistent with the Comprehensive Plan, reasonable and in the public interest.~~
- ~~d. All enactments, amendments and changes must be in the form of an ordinance. Copies of adopted city ordinances shall be kept on file at the office of the City Clerk.~~

E. Considerations for Planning Director Review

The following ~~lists~~ is a non-exclusive list of considerations for the Planning Director's review and recommendations regarding a UDO text amendment application ~~are not all-inclusive. Review and recommendations on UDO text amendments to this UDO by the Planning Director may consider whether to take into account when reviewing a TC request.~~ The Planning Director may consider whether:

1. The proposed ~~text amendment~~ TC corrects an error or meets the challenge of some changing condition, trend or fact;
2. The proposed ~~text amendment~~ TC is in response to changes in state law;
3. The proposed ~~text amendment~~ TC is generally consistent with the Comprehensive Plan and other applicable adopted area plans;
4. ~~The proposed text amendment does not conflict with any specific policy or action item of the Comprehensive Plan;~~
- ~~5.~~ The proposed ~~text amendment~~ TC is generally consistent with the stated purpose and intent of this UDO;
- ~~56.~~ The proposed ~~text amendment~~ TC constitutes provides a benefit to the City as a whole and is not solely for the good or benefit of a particular landowner or owners at a particular point in time;
- ~~67.~~ The proposed ~~text amendment~~ TC significantly impacts the natural environment, including air, water, noise, stormwater management, wildlife and vegetation; and
- ~~78.~~ The proposed ~~text amendment~~ TC significantly impacts existing conforming development patterns, ~~standards or zoning regulations.~~

Section 2. This text change has been reviewed by the Raleigh Planning Commission.

Section 3. This ordinance has been adopted following a duly advertised legislative hearing of the Raleigh City Council.

Section 4. This ordinance has been provided to the North Carolina Capital Planning Commission as required by law.

Section 5. This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty-dollar limit in N.C.G.S. 14-4(a) or similar limitations.

Section 6. This ordinance is effective 5 days after adoption.

ADOPTED: December 1, 2020

EFFECTIVE: December 6, 2020

DISTRIBUTION: Planning & Development – Young, Bowers, Crane, Waddell, Ray, Rametta,
Hosey, Bailey-Taylor
City Attorney – Tatum, Hofmann, York, Hargrove-Bailey
Department Heads
Transcription Svcs – Taylor