

## ARTICLE X

### ADMINISTRATION AND ENFORCEMENT

Section 1001. Zoning Administrator. It shall be the duty of the Zoning Administrator to enforce and administer the provisions of this ordinance.

If the Zoning Administrator finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

If a ruling of the Zoning Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

Section 1002. Zoning Permit Required. No building, sign or other structure shall be erected, moved, extended or enlarged, or structurally altered, nor shall any excavation or filling of any lot for the construction of any building be commenced until the Zoning Administrator has issued a zoning permit for such work. Every person obtaining a zoning permit hereunder shall pay a fee as provided in a schedule of zoning permit fees to be adopted by the governing body.

Section 1003. Application for Zoning Permit. Each application to the Zoning Administrator for a zoning permit shall be accompanied by plot plans in duplicate showing:

- The actual dimensions of the lot to be built upon,
- The size of the building to be erected,
- The location of the building on the lot,
- The location of existing structures on the lot, if any,
- The number of dwelling units the building is designed to accommodate,
- The approximate setback lines of buildings on adjoining lots,
- The intended use of the property,
- A site plan as required by Section 711,
- Such other information as may be essential for determining whether the provisions of this ordinance are being observed. Any zoning permit issued shall expire and be canceled unless the work authorized by it shall have begun within six (6) months of its date of issue, or if the work authorized by it is suspended or abandoned for a period of one (1) year. Written notice thereof shall be given to the persons affected, including notice that further work as described in the

canceled permit shall not proceed unless and until another zoning permit has been obtained.

Section 1004. Certificate of Occupancy Required. A Certificate of Occupancy issued by the Zoning Administrator is required in advance of:

- Occupancy or use of a building hereafter erected, altered or moved
- A change of use of any building or land

In addition, a Certificate of Occupancy shall be required for each non-conforming use created by the passage and subsequent amendments to this ordinance. The owner of such non-conforming use shall obtain a Certificate of Occupancy within 30 days of the date of said passage or amendments.

A Certificate of Occupancy, either for the whole or a part of a building, shall be applied for co-incident with the application for a zoning permit and shall be issued within ten (10) days after the erection or structural alteration of such building or part shall have been completed in conformity with the provisions of this ordinance. A Certificate of Occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance. If the Certificate of Occupancy is denied, the Zoning Administrator shall state in writing the reasons for refusal, and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the Zoning Administrator and copies shall be furnished upon request to any persons having a proprietary or tenancy interest in the building or land involved.

Section 1005. Conditional Use Permits. All applications for Conditional Use Permits shall be submitted to the Zoning Administrator, reviewed, and acted upon as described in Article XI, Section 115.2 of this ordinance.

1005.1 Compliance with Other Codes. Granting a Conditional Use Permit does not exempt the applicant from complying with all of the requirements of building codes and other ordinances.

1005.2 Revocation. In any case where the conditions of a conditional use permit have not been or are not being complied with, the Zoning Administrator shall give the permittee notice of intention to revoke such permit at least 10 days prior to a Board of Commissioners' review thereon. After the conclusion of the review, the Board of Commissioners may revoke such permit.

1005.3 Expiration. In any case where a conditional use permit has not been exercised within the time limit set by the Board of Commissioners, or within one year if no specific time limit has been set, then without further action the permit shall be null and void. "Exercised" as set forth in this subsection shall mean that binding contracts for the construction of the main building shall have been let; or in the absence of contracts, that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewerage, drainage, etc.). When construction is not a part of

the use, "exercised" shall mean that the use is in operation in compliance with the conditions set forth in the permit.

1005.4 Careful Record. A careful record of such application and plat, together with a record of the action taken thereon, shall be kept in the office of the Zoning Administrator.

## ARTICLE XI

### BOARD OF ADJUSTMENT

Section 1101. Establishment of Board of Adjustment. A Board of Adjustment is hereby created as provided in Section 160A-388 of the General Statutes of North Carolina. Said Board shall consist of nine (7) members; five members shall be residents of the Town of Granite Falls, and the other two members shall be appointed as provided in Section 160A-362 of the General Statutes of North Carolina for the overlapping terms of three years. Initial appointment shall be as follows: One (1) member for a term of three (3) years, four (4) members for a term of two (2) years, and four (4) members for a term of one (1) year. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board of Adjustment.

The Town Council of the Town of Granite Falls may, in its discretion, appoint not more than two alternate members to serve on the Board of Adjustment in the absence, for any cause, of any regular member. Such alternate member or members shall be appointed on the same member as regular members and at the regular times for appointment. Such alternate member, while attending any regular or special meeting of the Board and serving in the absence of any regular member, shall have and exercise all the powers and duties of such regular member so absent.

Section 1102. Decisions of the Board of Adjustment. The concurring vote of four/fifths of the entire membership of the Board shall be necessary to reverse any order, requirements, decision or determination of the Zoning Administrator pertaining to Granite Falls or to decide in favor of the applicant any matter upon which it is required to pass under the Zoning Ordinance or to effect any variation of such Ordinance in the Town. Vacant seats and members recused from voting shall not be considered in calculation of the four/fifths majority (G.S. 160A-388). Alternate members may serve in place of disqualified regular members on individual matters (G.S. 160A-388).

On all appeals, applications and other matters brought before the Board of Adjustment, said Board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and shall decide the same within a reasonable time. The Board shall inform all parties involved of its decision in writing, stating the reasons supporting the decision.

Section 1103. Proceedings of the Board of Adjustment. The Board of Adjustment shall elect a chairman and vice-chairman from its members, each of whom shall serve for one

year or until re-elected or until their successors are elected and qualify. The Board shall appoint a secretary who may be a municipal officer, an employee of the Town, a member of the Planning Board or a member of the Board of Adjustment. The Board shall adopt rules and bylaws in accordance with the provisions of this Ordinance and of Article 19, Chapter 160A-385, of the General Statutes of North Carolina. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the vice-chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public. The secretary shall not have a vote unless he is also a regular or alternate member of the Board.

Section 1104. Appeals, Hearings and Notice. An appeal from the decision of the Zoning Administrator may be taken by any person aggrieved or affected by such decision to the Board of Adjustment. Such appeal shall be taken within 45 days by filing with the Zoning Administrator and with the secretary of the Board of Adjustment a notice of appeal to specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

Section 1105. Stay of Proceedings. An appeal stays all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record an application, on notice to the Zoning Administrator and on due cause shown.

Section 1106. Powers and Duties of the Board of Adjustment.

1106.1 Administrative Review. To hear and decide appeals where is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Ordinance.

1106.2 Conditional Uses; Conditions Governing Application. To grant in particular cases and subject to appropriate conditions and safeguards, permits for conditional uses as authorized by this Ordinance and set forth as conditional uses under the various use districts, The Board shall not grant a conditional use permit unless and until;

1106.21 A written application for a conditional use permit is submitted to the Planning Board for their review indicating the section of this Ordinance under which the conditional use permit is sought prior to the submission to the Board of Adjustment.

1106.22 A public hearing is held. Notice of such public hearing shall be posted on the property for which the conditional use permit is sought and in a local

newspaper at least 5 days prior to the public hearing. This legal notice shall describe the request and appear at least once.

- 1106.23 The Board of Adjustment finds that in the particular case in question the use for which the conditional use permit is sought will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. In granting such a permit, the Board of Adjustment may designate such conditions in connection therewith as will conform to the requirements and spirit of this Ordinance.
- 1106.24 Compliance with other Codes. Granting a conditional use permit does not exempt the applicant from complying with all of the requirements of building codes or other ordinances.
- 1106.25 Revocation. If at any time after a conditional use permit has been issued, the Board of Adjustment finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a conditional use permit, the permit shall be terminated and the operation of such use discontinued. If a conditional use permit is terminated for any reason it may be reinstated only after a public hearing is held.
- 1106.26 Expiration. In any case where a conditional use permit has not been exercised within the time limit set by the Board of Adjustment, or within one year if no specific time limit has been set, then without further action, the permit shall be null and void. "Exercised" as set forth in this subsection shall mean that binding contracts for the construction of the main building shall have been let; or in the absence of contracts that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewerage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions set forth in the permit.
- 1106.27 Careful record. A careful record of such application and plat, together with a record of the action taken thereon, shall be kept in the office of the Zoning Administrator.
- 1106.3 Variations. To authorize upon appeal in specific cases such variations from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provision of this Ordinance would result in unnecessary hardship. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:

- 1106.31 A written application for a variance is submitted demonstrating:
- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same district.
  - That a literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
  - That said circumstances do not result from the action of the applicant.
  - That granting the variance requested will not confer upon the applicant any special privileges that are denied by this Ordinance to other lands, structures, or buildings in the same district.
  - That no nonconforming use of neighboring land, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts will be considered grounds for the issuance of a variance.
- 1106.32 Notice of a public hearing shall be given as set forth in Subsection 1106.22. At the public hearing, and party may appear in person or by agent or attorney
- 1106.33 The Board of Adjustment shall make findings that the requirements of Subsection 1106.31 shall have been met for a variance.
- 1106.34 The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance in the minimum one that will make possible the reasonable use of the land, building or structure.
- 1106.35 The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- 1106.36 In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 1305 of this Ordinance.
- 1106.37 Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms or this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

Section 1107. Decision of the Board of Adjustment. In exercising the above-mentioned powers, the Board of Adjustment may reverse or affirm, wholly or in part, or may modify any order, requirements, decision or determination and to that end shall have the powers of the administrative official from whom the appeal is taken.

Section 1108. Duties of the Zoning Administrator, Board of Adjustment, Courts and Town Council on Matters of Appeal. It is the intention of this Ordinance that all questions arising in connection with the enforcement of this Ordinance shall be presented to the zoning Administrator and that such question shall be presented to the Board of Adjustment only on appeal from the zoning Administrator and that from the decision of the Board of Adjustment recourse shall be had to courts as prescribed by law. It is further the intention of this Ordinance that the duties of the Granite Falls Town Council in connection with the Ordinance shall not include the hearing and passing upon disputed question that may arise in connection with the enforcement thereof. The duties of the Town Council in connection with this Ordinance shall be only the duty of considering and passing upon any proposed amendments or repeal of this Ordinance.

## ARTICLE XII

### AMENDMENTS AND CHANGES

Section 1201. Procedure for Amendments. A petition for an amendment to this Ordinance and to the Official Zoning Map may be initiated by the Town of Granite Falls, the Planning Board, any department or agency of the Town of Granite Falls, the owner of any property within the zoning jurisdiction of the Town, or any interested citizen who can show just cause for an amendment. Applications submitted by individual property owners or interested citizens who are not acting in an official capacity for the Town of Granite Falls shall comply with the following procedural requirements.

1201.1 Application Submission. Any application for an amendment to the Zoning Ordinance shall be filed with the Town Manager at least twenty (20) days prior to the date on which it is to be introduced to the Planning Board. The Town manager shall be responsible for presenting the application to the Planning Board. Each petition for an amendment shall be accompanied by a fee to help defray the costs of advertising the public hearing required by Article 19, Chapter 160A-364 of the North Carolina General Statutes. If a public hearing is not held, said fee shall be refunded to the petitioner.

Each application involving a change to the Official Zoning Map shall be signed, be in duplicate, and shall contain at least the following information:

- The applicant's name in full, applicant's address, address or description of the property to be rezoned

- The applicant's interest in the property and the type of rezoning requested
- If the proposed change would require a change in the Zoning Map, an accurate diagram of the property proposed for rezoning, showing:
  - (a) All property lines with dimensions, including north arrow;
  - (b) Adjoining streets with rights-of-way and paving widths;
  - (c) The location of all structures, existing and proposed, and the use of the land;
  - (d) Zoning classification of all abutting zoning districts;
  - (e) Names and addresses of all adjoining property owners.
- A statement regarding the changing conditions, if any, in the area or in the Town generally that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.

1201.2 Planning Board Consideration. All proposed amendments to the Zoning Ordinance shall be submitted to the Granite Falls Planning Board for review and recommendation. At the discretion of the Planning Board, a public hearing may be conducted to consider the proposed amendment. The Planning Board shall have thirty-one (31) days from the time the proposed amendment was first considered by the Planning Board to submit its report. If the Planning Board fails to submit a report within the above period, it shall be deemed to have approved the proposed amendment.

1201.3 Town Council Consideration. Before adopting or amending this Ordinance, the Granite Falls Town Council shall hold a public hearing on it. A notice of the public hearing shall be given once a week for two consecutive calendar 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 hearings (G.S. 160A-364). The property shall also be posted for all proposed map amendments prior to the public hearing (G.S. 160A-384c). Any petition for an amendment to this Ordinance may be withdrawn at any time by written notice to the Town Clerk.

1201.4 Town Council Decision. The Granite Falls Town Council shall prepare a written statement following the adoption or denial of any proposed zoning amendment that addresses the reasonableness, furtherance of the public interest and consistency of the decision with adopted land use plans (G.S. 160A 383).

## Section 1202. Protest Petition.

1202.1 General. A protest petition may be presented against any proposed map (G.S. 160A-385a) amendment signed by the owners of twenty percent (20%) or more of the area of the lots included in the proposed change, or of those immediately adjacent thereto within a one hundred (100') buffer around the area proposed for

rezoning, measured from the property lines of those parcels. Rights of way within the 100' buffer that are less than 100' wide shall not be considered when calculating the 100' buffer. In this case the amendment shall not become effective except by favorable vote of three-fourths of all members of the Granite Falls Town Council. Vacant seats and members recused from voting shall not be considered in calculation of three-fourths majority (G.S. 160A-385a).

1202.2 Petition Requirements. No protest against any change in or amendment to the Zoning Map shall be valid or effective unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, unless it shall have been received by the Town Manager in sufficient time to allow the Town at least two normal working days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition (G.S. 160A-386).

1202.3 Petition Withdrawal. A petition may be withdrawn at any time prior to the official vote on the proposed map amendment (G.S. 160A-386).

Section 1203. Procedure for Resubmission of a Proposed Amendment. Any proposed amendment to the Zoning Ordinance having complied with the requirements of Article XII, Section 1201 of this Ordinance and having been denied by the Town Council may be resubmitted to the Planning Board only after a waiting period of no less than one (1) year from the date of denial. A fee to help defray the costs of advertising the public hearing shall be paid and all requirements of Article XII, Section 1201 shall be complied with. The amount of the fee is \$75.00.

## ARTICLE XIII

### LEGAL PROVISIONS

Section 1301. Interpretation, Purpose and Conflict. In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of building, or requires larger open spaces than are imposed or required by other Ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern, provided that nothing in the Ordinance shall be construed to amend or repeal any other existing Ordinance of the Town.

Section 1302. Town Attorney May Prevent Violation. If any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any structure or land is used in violation of this Ordinance, the Zoning Administrator shall inform the

Town Attorney. In addition to other remedies, the Town Attorney may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or restrain, correct or abate such violation, to prevent the occupancy of such structure or land or to prevent any illegal act, conduct, business or use in or about the premises.

Section 1303. Reenactment and Repeal of Existing Zoning Ordinance. This Ordinance in part carries forward by reenactment some of the provisions of the Zoning Ordinance of Granite Falls, adopted by the Board of Commissioners on March 8, 1965, as amended, and it is not the intention to repeal but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have accrued hereunder are preserved and may be enforced. All provisions of the Zoning Ordinance of the Town of Granite Falls enacted on March 8, 1965, as amended, which are not reenacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any zoning Ordinance heretofore in effect, which are not pending in any of the courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance but shall be prosecuted to their finality the same as if this Ordinance has not been adopted; any and all violations of the existing Zoning Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted, and nothing in this Ordinance shall be construed as to abandon, abate or dismiss any litigation or prosecution now pending, and/or which may heretofore have been instituted or prosecuted.

Section 1304. Validity. Should any section or provisions of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 1305. Penalties. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance, shall upon conviction be subject to a fine of fifty dollars (\$50.00) or imprisonment for thirty (30) days. Each day that a violation continues to exist shall constitute a separate offense.