

154.09. INTERPRETATIONS**154.09.01 Purpose**

The interpretation authority established by this Section 154.09 is intended to recognize that the provisions of this Code, though detailed and extensive, cannot, as a practical matter, address every specific situation to which they may have to be applied. Many such situations can be readily addressed by an interpretation of the specific provisions of this Code in light of the general and specific purposes for which those provisions have been enacted. Because the interpretation authority established is an administrative rather than a legislative authority, it is not intended to add to or change the essential content of this Code but is intended only to allow authoritative application of that content to specific cases.

154.09.02 Authority

The Planning Director, subject to the procedures, standards, and limitations of this Section 154.09 may, by written order, render interpretations, including use interpretations, of the provisions of this Code and of any rule or regulation issued pursuant to it.

154.09.03 Parties Entitled to Seek Interpretations

Applications for interpretations may be filed by any person having a legal or equitable interest in property that gives rise to the need for an interpretation; provided that interpretations shall not be sought by any person based solely on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion.

154.09.04 Procedure for Review and Decision**A. Application**

Applications for Interpretations of this Code shall be filed in accordance with the requirements of Section 154.01 of this Code.

B. Action on Application

Within ten (10) working days following the receipt of a properly completed application for interpretation, the Planning Director shall inform the applicant in writing of his interpretation, stating the specific precedent, reasons, and analysis upon which the determination is based. The failure of the Planning Director to act within ten (10) working days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the application rendered on the day following such ten (10) day period.

C. Records

A record of all applications for interpretations shall be kept on file in the office of the Planning Director. At least once a year, the Planning Director shall make public a listing of his decisions, by address, regarding the applications for interpretation.

D. Appeal

Appeals from interpretations rendered by the Planning Director may be taken to the Board of Zoning Appeals pursuant to Section 154.12.

154.09.05 Standards for Use Interpretations

The following standards shall govern the issuing of use interpretations.

- A.** Any use defined in 152.02, Definitions, of this Code shall be interpreted as therein defined;

- B. No use interpretation shall permit any use in any district unless evidence shall be presented that demonstrates that it will comply with the general district regulations established for that particular district;
- C. No use interpretation shall permit any use in a district unless such use is similar to other uses permitted in the district and is more similar to those uses than to uses permitted in a more restrictive district;
- A. If the proposed use is most similar to a use permitted only as a conditional use in the district in which it is proposed to be located, then any use interpretation permitting such use shall be conditioned on the issuance of a conditional use permit for such use pursuant to 154.07; and
- B. No use interpretation shall permit the establishment of any use that would be inconsistent with the statement of purpose of the district in question.

154.09.06 Effect of Favorable Use Interpretations

No use interpretation finding a particular use to be permitted or permitted as a conditional use in a particular district shall authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by the Ordinances and Codes of the Town including, but not limited to, a building permit, a certificate of occupancy, subdivision approval, and site plan approval.

154.09.07 Limitations on Use Interpretations

- A. Subject to an extension of time granted by the Planning Director, no use interpretation shall be valid for a period longer than six (6) months from the date of issue.
- B. An interpretation finding a use to be permitted, or permitted as a conditional use in a particular district, shall be deemed to authorize only the particular use for which it was issued, and such permit shall not be deemed to authorize any allegedly similar use for which a separate use interpretation has not been issued.

154.10. AMENDMENTS

154.10.01 Purpose

The purpose of this Section 154.10 is to provide standards and procedures for making amendments to the text of this Code and the Zoning Map that are of general significance or application. This amendment process is not intended to relieve particular hardships nor to confer special privileges or rights upon any person, but only to make adjustments necessary in light of changed conditions or changes in public policy.

154.10.02 Authority

The text of this Amendment and the Zoning Map may be amended from time to time by the passage of an Code duly adopted by the Town Council in accordance with the procedures set forth in this Section 154.10.

154.10.03 Parties Entitled to Initiate Amendments

A. Amendment to Text

Amendments to this Code may be initiated by adoption of a motion of the Plan Commission or by adoption of a resolution by Town Council.

B. Amendment to Zoning Map

Amendments to this Code may be initiated by adoption of a motion of the Plan Commission; by adoption of a resolution by Town Council; or by the filing of a petition

by at least fifty percent (50%) of the owners of property within the area proposed to be changed or affected by said amendment.

154.10.04 Standards for Amendments

The wisdom of amending the text of the Unified Development Code or the Zoning Map is a matter committed to the sound legislative discretion of the Town Council and is not controlled by any one standard. In making their determination, however, the Town Council should, in determining whether to adopt or deny, or to adopt some modification of the Plan Commission's recommendation, consider, among other factors, the following:

- A. Whether the proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive Plan, as adopted and amended from time to time by the Town Council;
- B. Whether the proposed amendment is compatible with current conditions and the overall character of existing development in the immediate vicinity of the subject property;
- C. Whether the proposed amendment is the most desirable use for which the land in the subject property is adapted;
- D. Whether the proposed amendment will have an adverse effect on the value of properties throughout the jurisdiction; and
- E. Whether the proposed amendment reflects responsible standards for development and growth.

154.10.05 Procedure for Review and Decision

A petition to amend the text of the Unified Development Code or the Zoning Map shall be processed in accordance with the procedures set forth below:

A. Applications

Applications for Amendments shall be filed in accordance with the requirements of Section 154.01 of this Code.

B. Public Hearing and Notice

The Plan Commission shall hold a public hearing on the application in accordance with the requirements of 154.01 Notice for the public hearing shall be provided in the manner prescribed by 154.01.

C. Plan Commission Action

Within sixty (60) days after receipt of the proposed amendment, the Plan Commission shall recommend the approval or denial of the proposed amendment, or the approval of the amendment with modifications, and shall then submit its written recommendation, together with the petition for the text and/or map change, to the Town Council.

D. Town Council Action

The Town Council shall either adopt or reject the recommendation of the Plan Commission or adopt some modification of the recommendation of the Plan Commission. Failure of the legislative body to pass the proposed amendment within ninety (90) days after its rejection by the Plan Commission constitutes rejection of the proposed amendment; and the proposed amendment may not be reconsidered by the Plan Commission or legislative body until the expiration of one (1) year after the date of its original rejection by the Plan Commission.

E. Effective Date

Such amendment adopted by Town Council shall become effective immediately upon adoption and approval by the Plan Commission.