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10: REVIEWING AGENCIES

10.1. OVERVIEW

As identified in [Article 2: Procedures](#), the following review authorities have powers and responsibilities for administering this Ordinance, especially with regard to procedures related to development applications.

- 10.1.1. Board of Adjustment (BOA);
- 10.1.2. Board of Commissioners (BOC);
- 10.1.3. Planning Board;
- 10.1.4. Technical Review Committee (TRC); and
- 10.1.5. Town staff, comprised of the Building Inspector, Planning Director, and Town Manager.

10.2. BOARD OF ADJUSTMENT (BOA)

The Board of Adjustment is hereby established in accordance with Section 160D-302 of the North Carolina General Statutes. The BOA shall have the following powers and duties, composition, and rules of procedure under this Ordinance:

10.2.1. POWERS AND DUTIES

A. APPLICATION REVIEW AND DECISION

To review and decide applications for:

1. Appeals of decisions by town staff members deciding applications under this Ordinance; and
2. Variances.

B. OTHER POWERS AND DUTIES

To exercise other powers and authority provided to it by the Board of Commissioners, this Ordinance, or state law.

C. WATERSHED REVIEW BOARD

The Board of Adjustment shall serve as the Watershed Review Board and review and decide variance requests from the watershed protection standards in accordance with [Section 2.2.21, Variance](#).

10.2.2. COMPOSITION

A. MEMBERSHIP

The BOA shall consist of five regular members.

B. RESIDENCE LOCATION AND APPOINTMENT

1. Four members shall be citizens and residents of the town and shall be appointed by the Town of Zebulon Board of Commissioners;
2. One member shall be a citizen of Wake County and reside outside the town but within the extraterritorial jurisdiction boundaries of the town and shall be appointed by the Board of Commissioners of Wake County.
 - a. If despite good faith efforts, enough residents of the extra territorial planning area cannot be found to fill the seats reserved for residents of the area, then the Wake County Board of Commissioners may appoint other residents of the county (including residents of the town) to fill these seats.
 - b. If the county Board of Commissioners fails to make these appointments within 90 days after receiving a resolution from the town Board of Commissioners requesting that they be made, the town Board of Commissioners may make them.
3. If a regular or alternate in-town member moves outside the town, or if an extra-territorial area regular or alternate moves outside the planning jurisdiction, that shall constitute a resignation from the BOA, effective upon the date a replacement is appointed.

C. ALTERNATE MEMBERS

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10.2. Board of Adjustment (BOA)

1. In addition to regular members, the BOA shall have two alternate members.
2. One alternate member shall be a citizen and resident of the town and shall be appointed by the town Board of Commissioners.
3. One member shall be a citizen of Wake County and reside outside the town but within the extraterritorial jurisdiction boundaries of the town and shall be appointed by the Board of Commissioners of Wake County.
4. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members.
5. Each alternate member, while attending any regular or special meeting of the BOA and serving in the absence of any regular member, shall exercise all the powers and duties of a regular member.
6. Town alternate members shall only replace regular town members and extraterritorial alternate members shall only replace regular extraterritorial members.

D. MEMBER TERMS

1. Board of Adjustment members shall be appointed for three-year staggered terms expiring on June 30.
2. Members may continue to serve until their successors have been appointed.
3. There shall be no term limits for those serving on the BOA.

E. VACANCIES

Vacancies occurring for reasons other than expired terms shall be filled as they occur for the unexpired remainder of the term either by the town Board of Commissioners or the County Commissioners of Wake County, depending upon the area represented.

F. OFFICERS

1. The BOA shall elect a Chair and Vice-Chair and create and fill such other offices as it may determine. The term of the Chair and other officers shall be one year, with eligibility for re-election.
2. Election of officers shall take place at the first meeting of the Board following the beginning of the fiscal year.

10.2.3. RULES OF PROCEDURE

A. GENERALLY

The BOA shall adopt rules for the transaction of its business and shall keep a record of its members' attendance and its resolutions, discussions, findings and recommendations, which record shall be a public record.

B. COMPENSATION

Members of the BOA shall receive no compensation for their services.

C. SCHEDULE

1. The BOA shall establish a regular meeting time and place.
2. Unless there is no business to be conducted, the BOA shall hold at least one meeting monthly.
3. The BOA may elect to change and/or delete meeting dates, times and/or locations of its regular meetings.

D. OPEN MEETINGS

All meetings and hearings shall be open to the public.

E. OFFICIAL RECORD

1. The BOA shall keep minutes of its proceedings showing the vote of each member upon each question and the absence or failure of any member to vote.
2. Unless otherwise provided by law, all records and minutes shall be public record.

F. QUORUM

1. No official business of the BOA may be conducted without a quorum present.

ARTICLE 10: REVIEWING AGENCIES

10.2. Board of Adjustment (BOA)

2. A quorum shall be defined as the number of members equal to four-fifths of the regular board membership, excluding vacant seats.

G. VOTING

1. The concurring vote of four-fifths of the BOA members shall be necessary to grant a variance.
2. A simple majority of the BOA members shall be required to decide any other matter.
3. Members who are recused from voting due to a conflict of interest shall not be counted towards a simple or super majority.
4. The members appointed to the BOA by the Board of Wake County Commissioners as representatives of the extraterritorial area outside the town shall have equal rights, privileges and duties with the other members of the BOA regardless of whether the matters at issue arise within the town or within the extraterritorial area.

H. ATTENDANCE

Faithful attendance at meetings of the BOA is considered a prerequisite to continued membership, and the appointing authority may remove and replace any member continually delinquent in his duty to attend.

1. Regular members of the Board of Adjustment may be removed by the Board of Commissioners at any time for failure to attend three consecutive meetings or for failure to attend 70 percent or more of the meetings within any 12-month period or for any other good cause related to performance of duties.
2. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures.

I. CONFLICT OF INTEREST

1. A member of the BOA shall not vote, nor participate in any manner that would violate an affected person's constitutional rights to an impartial decision maker; including, but are not limited to:
 - a. A member having a fixed opinion prior to hearing the matter that is not susceptible to change;
 - b. Undisclosed ex-parte communication;
 - c. A close family, business, or other associational relationship with an affected person; or
 - d. Financial interest in the outcome of the matter.
2. If an objection is raised to a member's participation and that member does not recuse themselves, the remaining members shall by majority vote rule on the objection.

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10.3. Board of Commissioners

10.3. BOARD OF COMMISSIONERS

In order to exercise the authority granted to the Board of Commissioners by state law, the Board of Commissioners shall have the following powers and duties under this Ordinance:

10.3.1. POWERS AND DUTIES

A. APPLICATION REVIEW AND DECISION

To initiate, review, and decide applications for:

1. Comprehensive Plan Amendments;
2. Development Agreements;
3. Planned Developments;
4. Special Use Permits;
5. UDO Text Amendments;
6. Vested Rights Determinations; and
7. Zoning Map Amendments.

B. OTHER POWERS AND DUTIES

1. To approve, by resolution, a schedule of fees governing:
 - a. Applications for permits and other development approval reviews under this ordinance; and
 - b. Civil penalties for violations of this Ordinance.
2. To take any other action not delegated to the Planning Board, BOA, or town staff, as the Board of Commissioners may deem desirable and necessary to implement the provisions of this Ordinance.

10.3.2. CONFLICT OF INTEREST

In accordance with NCGS 160D-109(a) A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

ARTICLE 10: REVIEWING AGENCIES

10.4. Planning Board

10.4. PLANNING BOARD

The Planning Board is hereby established in accordance with Section 160D-301 of the North Carolina General Statutes. The Planning Board shall have the following powers and duties, composition, and rules of procedure under this Ordinance:

10.4.1. POWERS AND DUTIES

A. RECOMMENDATION AUTHORITY

To make recommendations to the Board of Commissioners on the following applications:

1. Comprehensive Plan Amendments;
2. Development Agreements;
3. Planned Developments;
4. Special Use Permit concept plans;
5. UDO Text Amendments; and
6. Zoning Map Amendments.

B. OTHER POWERS AND DUTIES

The Planning Board shall have the following other powers and duties:

1. To make studies of the town's planning jurisdiction and surrounding areas;
2. To determine objectives to be sought in the development of the town;
3. To prepare and adopt plans for achieving these objectives;
4. To develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans that the Board of Commissioners may direct;
5. To advise the Board of Commissioners concerning the use and amendment of means for carrying out plans;
6. To exercise any functions in the administration and enforcement of various means for carrying out plans that the Board of Commissioners may direct;
7. To perform any other related duties that the Board of Commissioners may direct;
8. To conduct such public meetings as may be required to gather information necessary for the drafting, establishment, and maintenance of adopted or proposed plans and before recommending any such plans to the Board of Commissioners; and
9. To promote public interest in and an understanding of its recommendations, and to that end, publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may determine.

10.4.2. COMPOSITION

A. MEMBERSHIP

The Planning Board shall consist of seven members.

B. RESIDENCE LOCATION AND APPOINTMENT

1. Four members shall be citizens and residents of the town and shall be appointed by the town of Zebulon Board of Commissioners;
2. Three members shall be citizens of Wake County and reside outside the town but within the extraterritorial jurisdiction boundaries of the town and shall be appointed by the Board of Commissioners of Wake County.
 - a. If despite good faith efforts, enough residents of the extra territorial planning area cannot be found to fill the seats reserved for residents of the area, then the Wake County Board of Commissioners may appoint other residents of the county (including residents of the town) to fill these seats.
 - b. If the County Board of Commissioners fails to make these appointments within 90 days after receiving a resolution from the Board of Commissioners of the town requesting that they be made, the Board of Commissioners of the town may make them.
3. Members of the Planning Board shall hold no other official municipal government position except on a zoning board, zoning board of adjustment or housing authority board.

ARTICLE 10: REVIEWING AGENCIES

10.4. Planning Board

4. A member may be removed by the Board which appointed the member for neglect of duty or malfeasance in office.
5. Upon request of the member proposed for removal, the Board of Commissioners may hold a hearing on the removal before it becomes effective.

C. MEMBER TERMS

1. Members of the Planning Board shall be appointed for terms of three years with terms expiring on June 30.
2. Members may continue to serve until their successors have been appointed.
3. There shall be no term limits for those serving on the Planning Board.

D. VACANCIES

Vacancies occurring for reasons other than expired terms shall be filled as they occur for the unexpired remainder of the term either by the Board of Commissioners of the town or the County Commissioners of Wake County, depending upon the area represented.

E. OFFICERS

1. The Planning Board shall elect a Chairperson and may create and fill other offices as it may deem necessary.
2. The term of officers shall be one year or until successors shall have been elected and installed, with eligibility for re-election.

10.4.3. RULES OF PROCEDURE

A. GENERALLY

The Planning Board shall adopt rules for the transaction of its business and shall keep a record of its members' attendance and its resolutions, discussions, findings and recommendations, which record shall be a public record.

B. COMPENSATION

Members of the Planning Board shall receive no compensation for their services.

C. SCHEDULE

1. The Planning Board shall establish a regular meeting time and place.
2. Unless there is no business to be conducted, the Planning Board shall hold at least one meeting monthly.
3. The Planning Board may elect to change and/or delete meeting dates, times and/or locations of its regular meetings.

D. OPEN MEETINGS

All meetings and hearings shall be open to the public.

E. OFFICIAL RECORD

1. The Planning Board shall keep minutes of its proceedings showing the vote of each member upon each question and the absence or failure of any member to vote.
2. Unless otherwise provided by law, all records and minutes shall be public record.

F. QUORUM

1. No official business of the Planning Board may be conducted without a quorum present.
2. A quorum shall consist of a majority of actual membership excluding vacant seats.

G. VOTING

1. An affirmative vote of the majority of Planning Board members constituting a quorum is required for all decisions.
2. The Chairperson shall vote as any other member.
3. The members appointed to the BOA by the Board of Wake County Commissioners as representatives of the extraterritorial area outside the town shall have equal rights, privileges and duties with the other

ARTICLE 10: REVIEWING AGENCIES

10.4. Planning Board

members of the Planning Board regardless of whether the matters at issue arise within the town or within the extraterritorial area.

H. ATTENDANCE

Faithful attendance at meetings of the Planning Board is considered a prerequisite to continued membership, and the appointing authority may remove and replace any member continually delinquent in his duty to attend. Specifically, members of the Planning Board may be removed by the Board of Commissioners at any time for:

1. Failure to attend three consecutive meetings; or
2. Failure to attend 70% or more of the meetings within any 12-month period;
3. For any other good cause related to performance of duties.

I. CONFLICT OF INTEREST

1. A member of the Planning Board shall not vote, nor participate in any manner that would violate an affected person's constitutional rights to an impartial decision maker; including, but are not limited to:
 - a. A member having a fixed opinion prior to hearing the matter that is not susceptible to change;
 - b. Undisclosed ex-parte communication;
 - c. A close family, business, or other associational relationship with an affected person; or
 - d. Financial interest in the outcome of the matter.
2. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

ARTICLE 10: REVIEWING AGENCIES

10.5. Technical Review Committee (TRC)

10.5. TECHNICAL REVIEW COMMITTEE (TRC)

The Technical Review Committee (TRC) is hereby established in accordance with Section 160D-306 and Section 160D-803 of the North Carolina General Statutes. The TRC shall have the following powers, duties, composition, and rules of procedure under this Ordinance:

10.5.1. POWERS AND DUTIES

A. APPLICATION REVIEW AND DECISION

To review and decide the following applications:

1. Preliminary Plats; and
2. Site Plans.

B. OTHER POWERS AND DUTIES

To conduct a review of any other issue deemed appropriate by the Board of Commissioners or Town Manager.

10.5.2. COMPOSITION

A. MEMBERSHIP

1. The TRC shall consist of the following persons or their appointed representatives:
 - a. Town Manager;
 - b. Planning Director;
 - c. Police Chief;
 - d. Fire Chief;
 - e. Public Works Director;
 - f. Finance Director;
 - g. Parks and Recreation Director;
 - h. Appropriate representatives from any other public utility; and
 - i. Other persons whose attendance would be beneficial to the review process as determined by the Chair.
2. Representatives from other town departments, representatives from other municipalities, NC DOT, railroad representatives, private utility companies, and public or private school systems may also attend.

B. OFFICERS

The Planning Director shall serve as Chair of the TRC, and shall schedule committee meetings, coordinate the committee's activities, preside over committee meetings, prepare committee reports, and serve as liaison to the departments and agencies involved for clarification of issues and resolution of conflicts.

10.5.3. RULES OF PROCEDURE

A. MEETINGS

1. The TRC shall establish a regular meeting schedule, and shall meet frequently enough to discuss any plats, plans or related issues submitted to it for review.
2. The Planning Director may invite applicants to attend TRC meetings.

B. CONFLICT OF INTEREST

1. No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.
2. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with

ARTICLE 10: REVIEWING AGENCIES

10.5. Technical Review Committee (TRC)

a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

ARTICLE 10: REVIEWING AGENCIES

10.6. Building Inspector

10.6. BUILDING INSPECTOR

With respect to the administration of this Ordinance, the Building Inspector shall have the following powers and duties:

10.6.1. POWERS AND DUTIES

A. APPLICATION REVIEW AND DECISION

To review and decide applications for:

1. Building Permits; and
2. Certificates of Occupancy.

B. OTHER POWERS AND DUTIES

The Building Inspector shall have the following other powers and duties:

1. Assist with enforcement of this Ordinance in accordance with Article 8: Enforcement;
2. Process applications as designated in the Procedures Manual;
3. Provide expertise and technical assistance to the town's review authorities and administration, upon request;
4. Maintain all records pertaining to the provisions of this Ordinance and make records available for public inspection; and
5. Perform other duties as may be assigned by the Town Manager or the Board of Commissioners.

ARTICLE 10: REVIEWING AGENCIES

10.7. Planning Director

10.7. PLANNING DIRECTOR

The Planning Director shall have the following powers and duties:

10.7.1. POWERS AND DUTIES

A. APPLICATION REVIEW AND DECISION

To review and decide applications for:

1. Administrative Adjustments;
2. Exempt Subdivisions;
3. Final Plats;
4. Floodplain Development Permits;
5. Interpretations;
6. Sign Permits;
7. Temporary Use Permits; and
8. Zoning Compliance Permit.

B. OTHER POWERS AND DUTIES

The Planning Director shall have the following other powers and duties:

1. Assist with enforcement of this Ordinance in accordance with Article 8: Enforcement;
2. Serve as the Floodplain Administrator;
3. Maintain the Procedures Manual;
4. Provide expertise and technical assistance to the town's review authorities and administration, upon request;
5. Maintain all records pertaining to the provisions of this Ordinance and make records available for public inspection; and
6. Perform other duties as may be assigned by the Town Manager or the Board of Commissioners.

C. WATERSHED ADMINISTRATOR

1. The Planning Director is hereby appointed as the Watershed Administrator and review all applications for development in the R1 district for compliance with the applicable water supply watershed regulations.
2. The Planning Director may enter any building, structure, or premises, as provided by law, to perform any duty of the Watershed Administrator.

D. FLOODPLAIN ADMINISTRATOR

The Planning Director is hereby appointed to administer and implement the provisions of Section 3.8.2, Flood Hazard Overlay (FHO) District. Duties of the Planning Director shall include, but not be limited to:

1. Review all development permits to assure that the requirements of this part have been satisfied.
2. Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.
3. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
4. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.
5. Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of Section 3.8.2, Flood Hazard Overlay (FHO) District, are met.
6. Obtain actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with division (B)(5).
7. Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with division (B)(5).

ARTICLE 10: REVIEWING AGENCIES

10.7. Planning Director

8. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 3.8.2.D.2.b, Non-Residential Construction.
9. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this section.
10. When base flood elevation data or floodway data has not been provided in accordance with Section 3.8.2.B.2, Basis for Establishing the Areas of Special Flood Hazard, obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state, or other source, including data developed pursuant to Section 3.8.2.D.3.b, in order to administer the provisions of this part.
11. Make on-site inspections of projects in accordance with Section 3.8.2.B.8, Violations.
12. Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with Section 3.8.2.B.8, Violations.
13. Maintain all records pertaining to the administration of this part and make these records available for public inspection.
14. Provide the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program with two copies of the maps delineating new corporate limits within six months from date of annexation or change in corporate boundaries.
15. The Planning Director or their appointed designee shall report all variances granted each calendar year to the Environmental Management Commission and Wildlife Resources Commission on or before January 1 of the following year.
16. The Planning Director or their appointed designee may waive the requirements of this section to allow an encroachment into the required flood protection areas for the construction of required public improvements including, water, sewer, and roadways when a finding of no practical alternative is made. Any waiver of these requirements does not in any way relieve the applicant of the requirements of other federal, state, or local regulations applicable to the development area. In making the determination for waivers the Land Use Administrator, or their appointed designee, shall consider:
 - a. Safety;
 - b. Terrain;
 - c. Impact on adjacent properties;
 - d. Accessibility;
 - e. System function;
 - f. Cost; and
 - g. Timing.

10.8. TOWN MANAGER

The Town Manager shall have the following powers and duties:

10.8.1. POWERS AND DUTIES

A. POWERS AND DUTIES

The Town Attorney shall have the following other powers and duties:

- 1.** Enforce this Ordinance in accordance with Article 8: Enforcement, and State law;
- 2.** Advise applicants on the merits of proposed applications;
- 3.** Facilitate coordinated implementation, enforcement, and periodic review of this Ordinance by keeping the Board of Commissioners informed of matters involving this Ordinance;
- 4.** Hear appeals of development-related aspects not addressed in this Ordinance; and
- 5.** Perform other duties as may be assigned by the Board of Commissioners in accordance with State law.

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Board of Commissioners

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