

ARTICLE III - Administrative Mechanisms

Part 1. Planning Board.

§ 152-21. Appointment and Terms of Planning Board Members.

(A) There shall be a Planning Board consisting of seven (7) members, and two (2) alternate members may also be appointed to the Board. Six (6) full members appointed by the Board of Commissioners, shall reside within the town. One full member appointed by the Moore County Board of Commissioners, shall reside in the town's extraterritorial jurisdiction. Two (2) alternates may be appointed by the Board of Commissioners. If either of the alternate positions is to be filled by a resident in the extraterritorial jurisdiction, the Moore County Board of Commissioners must also approve the appointment. If, despite good faith efforts, enough residents of the extraterritorial jurisdiction cannot be found to fill the seats reserved for residents of that area, then the Moore County Board of Commissioners may appoint other residents of the county (including residents of the Town) to fill these seats. If the Moore County Board of Commissioners fails to make these appointments within ninety (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. (Amended 6/11/12)

(B) Board members shall be appointed for three year staggered terms, but members may continue to serve until their successors have been appointed. The expiration dates of the six existing terms on the effective date of this section shall remain unchanged (i.e. two terms shall expire on June 30, 2011, two shall expire on June 30, 2012, and two shall expire on June 30, 2010). The term of the remaining fourth regular in-town resident shall expire June 30, 2011. The term of the in-town alternate shall expire June 30, 2010. The term of the out-of-town alternate shall expire June 30, 2012. Vacancies shall be filled for the unexpired terms only. (Amended 9/14/09)

(C) Members may be appointed to no more than two (2) successive three (3) year terms. For any member to be eligible to serve a third three (3) year term, he or she must remain off of the Board a minimum of one (1) year to be appointed again.

(D) The alternates may sit in lieu of either in-town or out-of-town members. All members (including alternate members when sitting in lieu of a regular member) may participate in and vote on all issues before the Board regardless of whether the issue affects property within the Town or within the extraterritorial jurisdiction. (Amended 9/14/09)

(E) Faithful attendance at the meetings of the Board is considered a prerequisite for maintenance of membership on the Board.

§ 152-22. Meetings of the Planning Board. (Amended 9/28/2015)

(A) The Planning Board shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with section 152-67, "Applications to be Processed Exeditiously."

(B) When the Board acts solely in its advisory capacity (for example, when it considers rezoning applications), it need not conduct its meetings (or portions of meetings) strictly in accordance with the quasi-judicial procedures set forth in articles III, IV, V, and VI of this chapter. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.

(C) When the Planning Board considers special use permits, it acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in articles III, IV and VI of this chapter.

(D) Minutes shall be kept of all Board proceedings.

(E) All Board meetings shall be open to the public, and whenever feasible the agenda for each Board meeting shall be made available in advance of the meeting.

(F) Whenever the Board is called upon to consider a special use permit request or to make recommendations concerning a conditional use permit request, notice shall be given in accordance with section 152-102.

§ 152-23. Quorum and Voting.

(A) A quorum for the Planning Board shall consist of a majority of the board membership, excluding vacant seats. A quorum is necessary for the board to take official action.

(B) All actions of the Planning Board shall be taken by majority vote, a quorum being present.

(C) A roll call vote shall be taken upon the request of any member.

(D) Extraterritorial planning area members may vote on all matters considered by the board, regardless of whether the property affected lies within or without the Town.

§ 152-24. Planning Board Officers.

(A) At its first meeting in August of each year, the Planning Board shall, by majority vote of its membership (excluding vacant seats), elect one of its members to serve as Chairman and preside over the board's meetings and one member to serve as Vice-Chairman. The people so designated shall serve in these capacities for terms of one year, unless their terms of appointment to the board expire sooner. Vacancies in these offices may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).

(B) The Chairman and Vice-Chairman shall take part in all deliberations and vote on all issues.

§ 152-25. Powers and Duties of Planning Board.

(A) The Planning Board may:

(1) Studies. The Planning Board may make careful studies of present conditions and probable future development of the town and its environs. Such studies may include but are not limited to land use surveys; population studies; economics base studies; schools, park and recreation studies; traffic and parking studies; pedestrian studies and master planning; and urban renewal studies;

(2) Plans. At the direction the Town Board, the Board may formulate and maintain a comprehensive plan of the town and its environs for the purpose of achieving a coordinated, adjusted and harmonious development of the municipality which would promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity and general welfare of its citizens; efficiency and economy in the process of development; convenience of traffic; safe and connected pedestrian access; safety from fire and other dangers; adequate light and air; healthful and convenient distribution of population; provision of adequate open spaces; good civic design and arrangement; wise and efficient expenditure of public funds; adequate provision for public utilities; and for other matters pertaining to the public requirements. The comprehensive plan shall consist of a number of parts which may include but are not limited to the following: a land use plan, a major thoroughfare plan, a utilities plan, a plan for economic development, a recreation plan, a school plan, and a community facilities plan;

(3) Develop and recommend to the Town Board policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

(4) Make recommendations to the Board of Commissioners concerning proposed conditional use permits and proposed zoning map changes, as provided by sections 152-57, "Recommendations on Conditional Use Permit Applications," and 152-322, "Planning Board Consideration of Proposed Amendments";

(5) Issue special use permits in accordance with this chapter;

(6) Powers of Review. The Board shall review and make recommendations to the Board of Commissioners upon the extent, location and design of all public structures and facilities; on the acquisition and disposal of public properties; on the opening, abandonment, widening, extension, narrowing or other change to streets and other public ways; on the construction, extension, expansion or abandonment of utilities whether publicly or privately owned. However, in the absence of a recommendation from the Board after the expiration of thirty (30) days from the date on which the question has been submitted in writing to the Board, the Board of Commissioners may, if it deems wise, take final action;

(7) The Planning Board shall, wherever required by section 152-160, "Water Supply Watershed Overlay District Regulations," act and function as the Watershed Review Board; and

(8) Perform any other duties assigned by the Town Board.

(B) The Planning Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this chapter.

§ 152-26. Advisory Committees.

(A) From time to time, the Town Board may appoint one or more individuals to help the Planning Board carry out its planning responsibilities with respect to a particular subject area. By way of illustration, and without limitation, the Town Board may appoint advisory committees to consider a thoroughfare plan, pedestrian master plans, bikeway plans, housing plans, economic development plans, etc.

(B) Members of such advisory committees shall sit as nonvoting members of the Planning Board when such issues are being considered and lend their talents, energies, and expertise to the Planning Board. All formal recommendations to the Town Board, however, shall be made by the Planning Board.

(C) Nothing in this section shall prevent the Town Board from establishing independent advisory groups, committees, or commissions to make recommendations on any issue(s) directly to the Town Board.

(D) If an advisory committee provides direct advice to the Town Board (i.e. it does not report to the Planning Board), a member of that board shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable impact on the member.

§ 152-27 through § 152-28. Reserved.

Part 2. Board of Adjustment. *(Amended 9/28/2015, 12/12/2016)*

§ 152-29. Board of Adjustment.

Pursuant to N.C.G.S. § 160A-388, there is hereby created a Board of Adjustment for the Town of Aberdeen with all the powers and authority granted to the Board by applicable law. The Board shall hear and decide all appeals, requests for variances and other matters delegated to it by the General Statutes that have not otherwise been assigned to another unit of the Town of Aberdeen.

§ 152-30. Composition.

(A) The Board of Adjustment shall consist of five (5) members. Four (4) of the members shall reside within the corporate limits of the Town and shall be appointed by the Aberdeen Board of Commissioners. One (1) member shall reside within the extraterritorial jurisdiction of the Town and shall be appointed by the Moore County Board of Commissioners pursuant to G.S. § 160A-362.

(B) Terms. Members of the Board of Adjustment shall be appointed for three-year staggered terms. For the purposes of the initial appointment only, two (2) members of the Board shall have terms of one (1) year, two (2) members shall have terms of two (2) years, and one member shall have terms of three (3) years.

(C) Attendance. Faithful attendance at the meetings of the Board is considered a prerequisite for maintenance of membership of the Board.

§ 152-31. Powers and Duties.

The Board of Adjustment shall have the following powers and duties:

(A) Appeals. To hear and decide appeals from decisions of the Land Use Administrator or his or her designee charged with enforcement of this chapter. To this end, the Board shall have all the powers of the officer from whom the appeal is taken. An appeal to the Board of Adjustment shall be conducted in accordance with the provisions of section 152-92, "Appeals." Pursuant to G.S. § 160A-388, the Board of Adjustment shall follow quasi-judicial procedures when deciding appeals.

(B) Variances. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board shall vary any of the provisions of the ordinance. Requests for variances shall be processed and considered in accordance with the provisions of section 152-93, "Variances." Pursuant to G.S. § 160A-388(a1), the Board of Adjustment shall follow quasi-judicial procedures when deciding requests for variances.

(C) Interpretations. The Board of Adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions in accordance with section 152-93, "Interpretations."

(D) Oaths. The Chairman or any member temporarily acting as Chairman is authorized in his or her official capacity to administer oaths to witnesses in any matter coming before the Board.

(E) Subpoenaing witnesses.

(1) Board Issued Subpoenas: The Board may subpoena witnesses and compel the production of evidence. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board of adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

(2) Subpoenas Requested by Others: To request issuance of a subpoena, persons with standing under section 152-92(B), "Appeals", may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled.

§ 152-32. Quorum and Voting.

(A) A quorum shall consist of a majority of the board membership, excluding vacant seats. A quorum is necessary for the board to take official action.

(B) A roll call vote shall be taken upon the request of any member.

(C) Extraterritorial members may vote on all matters considered by the Board of Adjustment, regardless of whether the property affected lies within or without the Town.

(D) The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of this chapter, or to decide in favor of the applicant in any matter upon which it is required to pass under any ordinance.

(E) The concurring vote of four-fifths of the Board shall be necessary to grant a variance.

(F) A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.

(G) For the purposes of this section, vacant positions on the Board and members who are disqualified from voting shall not be considered "members of the board" for calculation of the

requisite majority. A failure to vote by a member who is physically present at the Board meeting and who has not been recused or excused from the voting shall be recorded as an affirmative vote.

§ 152-33. Meetings of the Board of Adjustment, Notice of Hearing.

(A) The Board shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with Section 152-67, "Applications to be Processed Expeditiously."

(B) When the Board acts solely in its advisory capacity, it need not conduct its meetings (or portions of meetings) strictly in accordance with the quasi-judicial procedures set forth in Articles III, IV, V, and VI of this chapter. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.

(C) When the Board acts in a quasi-judicial capacity, it is required to observe the procedural requirements set forth in Article III, IV, V, and VI of this chapter.

(D) Minutes shall be kept of all Board proceedings.

(E) All Board meetings shall be open to the public, and whenever feasible the agenda for each Board meeting shall be made available in advance of the meeting.

§ 152-34 through § 152-36 Reserved.

Part 3. Land Use Administrator.

§ 152-37. Land Use Administrator.

Except as otherwise specifically provided, primary responsibility for administering and enforcing this chapter may be assigned by the Town Manager to one or more individuals, and this individual or individuals shall be referred to herein as the "Land Use Administrator" or "Administrator." The terms "staff," "Planning Director" and "Director of Planning and Inspections" are sometimes used interchangeably with the term "Administrator." Should the Town Manager not otherwise assign such responsibilities, the Director of Planning and Inspections, and those to whom he or she has delegated responsibility, shall have the primary responsibility for administering and enforcing this chapter.

§ 152-38. Planning Director.

The Director of Planning and Inspections is the administrative head of the Planning Department.

§ 152-39. Reserved.

Part 4. Town Board of Commissioners.

§ 152-40. Town Board of Commissioners.

(A) The Town Board of Commissioners, in considering conditional use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in articles III, IV and VI of this chapter. Notice of meetings to consider a conditional use permit application shall be given in accordance with section 152-102(B). *(Amended 9/28/2015)*

(B) In considering proposed changes in the text of this chapter or the zoning map, the Town Board acts in its legislative capacity and must proceed in accordance with the requirements of article XX of this chapter.

§ 152-41 through § 152-45. Reserved.