

## **DRAFT UDO Amendments**

### **Creating an Independent Board of Adjustment and Modifying the makeup of the Planning Board**

Prepared by:  
Matthew Hoagland  
Alamance County Planning Director

## **2.1 PLANNING BOARD**

### **2.1.1 ESTABLISHMENT AND RESPONSIBILITIES**

There is hereby established, by authority of Chapter 160D Section 301 of the North Carolina General Statutes an Alamance County Planning Board, which said Board shall:

- i. To prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.
- ii. To facilitate and coordinate ~~citizen~~ resident engagement and participation in the planning process.
- iii. To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
- iv. To advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. § 160D-604.
- v. To exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct.
- vi. To provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.
- vii. To perform any other related duties that the governing board may direct.

### **2.1.2 MEMBERSHIP**

The membership of the Planning Board shall be composed of ~~thirteen (13) citizens~~ seven (7) residents of Alamance County and:

- i. Terms for members of the Planning Board shall last for three (3) years with a two (2) term limit. After two full consecutive terms, outgoing members shall be ineligible for reappointment for a period of one (1) year.
- ii. The Planning Board may offer a recommendation to the Board of Commissioners for board candidates, but such recommendation shall not be mandatory for appointment.
- iii. Members of the Planning Board must reside full-time in Alamance County. Failure to be a full-time resident of Alamance County shall be grounds for removal from the Planning Board.
- iv. In order to achieve participation from all areas of the County, no more than ~~three~~ two members of the Planning Board should reside in a single township. Residency will be based on Members' primary place of residence. Any change of residence must be reported to the Clerk to the Planning Board within ninety (90) days.

- v. A member of the Board of Commissioners shall be named as an ex officio (without vote) member of the Board in order to provide liaison between the Planning Board and the Board of Commissioners.
- vi. All members appointed to Planning Board shall, before entering their duties, qualify by taking an oath of office as required by G.S. 160D-309.

### 2.1.3 PROCEDURES

- i. Any vote shall be carried by a simple majority present at the meeting unless a different standard is required by statute.
- ii. The Board shall adopt rules of procedure necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. The rules of procedure adopted by the Board shall at least provide for the selection of officers in the Board, the time and place of its regular meetings and the calling of special meetings, the procedures for the conduct of public hearings, and any other rule necessary for the operation of its meetings. Rules of Procedure should be amended when necessary to reflect changes in procedural requirements from ordinances or General Statutes. Such rules are subject to review and amendment as necessary by the Alamance County Board of Commissioners.
- iii. As it deems appropriate, the Board may from time to time establish various subcommittees or specialized boards to advise the full Board on matters within its responsibilities.
- iv. The Planning Board shall provide for the keeping of a record of its members' attendance, and of its resolutions, discussions, findings, and recommendations, which shall all be public record.

### 2.1.4 MEETING REQUIREMENTS

Meetings of the Planning Board shall be held at least quarterly. At the first meeting in each calendar year, the Planning Board shall elect a Chair and Vice Chair, and the Planner-in-Charge or designate shall serve as the Clerk to the Planning Board. Additionally, at the first meeting in each calendar year, the Planning Board shall adopt an annual meeting schedule which shall be properly posted outside of the meeting room and registered with the Clerk to the Board of County Commissioners.

## 2.3 BOARD OF ADJUSTMENT (BOA)

### 2.3.1 ESTABLISHMENT AND RESPONSIBILITIES

There is hereby established, by authority of Chapter 160D, Section 302 of the North Carolina General Statutes, a Board of Adjustment. ~~In all cases, the~~ The Board of County Commissioners shall appoint residents of Alamance County to serve as the Board of Adjustment, and The Board of Adjustment shall have and exercise the following powers:

- a) ~~The Board of Adjustment shall have the power to~~ To authorize, in specific cases, exceptions ~~variances from the terms of this Ordinance as will not be contrary to the public interests where,~~

~~owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be preserved, public safety, and welfare secured, and substantial justice done. Specific procedures for applications for these reviews will be adopted with this Ordinance. when unnecessary hardships would result from carrying out the strict letter of the regulations. The Board shall vary any of the provisions of this ordinance upon a showing of all of the following:~~

- ~~(i) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.~~
- ~~(ii) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.~~
- ~~(iii) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.~~
- ~~(iv) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.~~

~~No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.~~

b) ~~The Board of Adjustment will~~ To hear and decide appeals from any order, requirement, decision, or determination made by the Planning Director or designee, Historic Properties Commission, Technical Review Committee or the Planning Board in the enforcement or application of this Ordinance.

#### APPEALS:

- ~~(A)~~ i) Pursuant to N.C.G.S. § 160D-1402(c), ~~Appeals~~ appeals to the Board of Adjustment may be taken by any person aggrieved, or by any officer, department, Board, or Bureau of the political subdivision affected by any decision of the administrative agency.
- ~~(B)~~ ii) All appeals hereunder N.C.G.S. § 160D-405 and 406 shall be heard and decided as required by Chapter 106D or any subsequent statute.

#### 2.3.2 MEMBERSHIP

The Board of Adjustment shall be composed of five (5) members.

- i. Terms for members of the Board of Adjustment shall last for three (3) years. In appointing the original members or when filling vacancies, the Board of Commissioners may appoint certain members for less than three (3) years so that terms may not expire at the same time. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.

- ii. The Board of Commissioners may appoint alternate members to serve on the Board of Adjustment in cases of an absence, temporary disqualification, recusal from voting in specific hearings, or to fill a vacancy pending appointment of a member. Alternate members should be appointed in the same manner as regular members. When in service, alternate members shall have all the same powers and duties of regular members.
- iii. All members appointed to the Board of Adjustment shall, before entering their duties, qualify by taking an oath of office as required by G.S. 160D-309.

### 2.3.3 PROCEDURES

- a. A quorum of the Board, necessary to take official action, shall consist of four members. The concurring vote of four-fifths of the Board shall be necessary to grant a variance. 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. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- b. Any vote shall be carried by a simple majority present at the meeting unless a different standard is required by statute.
- c. The Board shall adopt rules of procedure necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. The rules of procedure adopted by the Board shall at least provide for the selection of officers in the Board, the time and place of its regular meetings and the calling of special meetings, and any other rule necessary for the operation of its meetings. Rules of procedure are subject to review and amendment as necessary by the Alamance County Board of Commissioners.
- d. The Board of Adjustment shall keep a record of its members' attendance, and of its resolutions, discussions, findings, and recommendations, which shall be public record.

### **3.4 QUASI-JUDICIAL PROCEDURE**

The Alamance County ~~Board of Commissioners acting as the~~ Board of Adjustment, as established by Chapter 160D of the North Carolina General Statutes shall hear all requests for a quasi-judicial hearing under this Ordinance.

- i) Boards shall follow the quasi-judicial procedures as outlined in N.C.G.S. § 160D-406 in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision.
- ii) An applicant may petition the Board of Adjustment for a quasi-judicial hearing only as allowed by the standards established by this Ordinance or applicable law.
- iii) Any application for a quasi-judicial hearing required by this Ordinance shall be made to the Planning Department upon a form published for that purpose, accompanied by payment of the approved review fees.

- iv) Prior to submittal to the Board, staff will complete an administrative review to verify that the application is complete and will forward the application to the Board of Adjustment for review.
- v) Quasi-judicial hearings shall require Public Notification as outlined by applicable law or this Ordinance.

## 6.11 WIRELESS COMMUNICATIONS FACILITIES

### 6.11.7 REMOVAL OF ABANDONED TOWERS, ANTENNAE, AND SUPPORT STRUCTURES

- (7) If the owner of the wireless communication facility believes that the Administrator's determination has been made in error, it may file a written appeal with the Board of ~~Commissioners~~ Adjustment prior to the expiration of the sixty (60) day period for removal. Such appeal shall be heard by the Board within thirty (30) days of the filing of the appeal and any proceedings to remove the abandoned wireless communication facility shall be stayed pending the outcome of this appeal.

## 6.13 AUTOMOBILE GRAVEYARDS

### 6.13.7 VARIANCE PROCEDURE

- a) The Board of ~~Commissioners~~ Adjustment may authorize ~~variations~~ variances from the provisions of this ordinance regarding required screening where there are practical difficulties or particular hardships in the way of carrying out the strict letter of the provisions of this ordinance. All requests for a variation shall be in writing and submitted to the ~~Administrative Services~~ Planning Department. ~~Prior to consideration of a variation by the Board of Commissioners, the request for the variation shall be referred by the Administrative Services Department to the Alamance County Planning Board for the Planning Board's recommendation.~~
- b) Notice: Decisions on ~~variations~~ variances by the Board of ~~Commissioners~~ Adjustment shall be reached only after a public quasi-judicial hearing and after notice has been given by certified mail to the applicant. ~~In addition, notice of the time and place of such public hearing shall be published in a paper of general circulation in the county not less than ten days nor more than thirty days previous to the hearing, and to any parties who may be reasonably able to claim standing in accordance with N.C.G.S. § 160D-1402(c).~~ Such notice shall contain the address or location of the property for which a hearing by the board is sought, as well as a brief description of the nature of the application.

#### 6.13.8 APPEAL PROCEDURE

The revocation of any permit or the refusal to issue a permit by the Alamance County Inspections Department, shall entitle the person who applied for the permit to a hearing if such person submits written demand for a hearing within fifteen (15) days after receipt of written notice of the disapproval or revocation. The hearing shall be conducted by the Alamance County Board of Commissioners Adjustment and pursuant to procedures adopted by the Alamance County Board of Commissioners. in Section 3.4.