

# **ARTICLE 2 ADMINISTRATIVE AGENCIES**

*Summary - This Article describes the various agencies involved in administration of the UDO. The jurisdiction, powers, and duties of each agency are described. These agencies include: the Planning Department, the Board of Adjustment, the Town Council, the Planning and Zoning Board, and the Historic Preservation Commission.*

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**2.1. PLANNING SERVICES AND DEVELOPMENT SERVICES DEPARTMENTS AND THEIR ADMINISTRATORS.**

**2.1.1. ESTABLISHMENT OF PLANNING DEPARTMENT.**

Pursuant to NCGS § 160A-361, the Town hereby establishes the Planning Services and Development Services departments of the Town. These departments shall perform the planning, zoning, and development functions for the Town and shall provide technical support and guidance for action on all plan and ordinance amendments and on applications for development approval. These departments shall perform other functions as may be requested by the Town Council or authorized by this Ordinance.

**2.1.2. ESTABLISHMENT OF OFFICE OF PLANNING ADMINISTRATOR.**

The Town hereby establishes the Office of the Planning Administrator (the “Administrator”) as a function of the Planning Services Director and the Office of the Zoning Administrator (the “Administrator”) as a function of the Development Services Director. The Administrators are charged with the authority and the duty to enforce this Ordinance. The Administrators are authorized to establish and delegate when appropriate Department standards of operation and procedures consistent with the intent of this Ordinance. The Administrators or their delegates may also consult with other officials, boards or agencies with needed technical expertise. "Administrator" shall include staff authorized by the Planning Administrator and/or the Zoning Administrator.

**2.1.3. APPEALS FROM THE DECISION OF THE ADMINISTRATOR.**

Appeals from the decisions of the Zoning Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance shall be made to the Board of Adjustment in accordance with § 3.8. Appeal from the decisions of the Planning Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the Planning Administrator in the enforcement of the Ordinance shall be made to the Planning and Zoning Board.

**2.1.4. INSPECTION.**

Pursuant to § 160A-411, the Zoning Administrator is hereby designated the Zoning Inspector and the Planning Administrator is hereby designated as the Subdivision Inspector for the Town. The Inspectors are empowered to enter or inspect any building, structure, premises, or real property in the Town upon which, or in connection with which, a development or land use is located or proposed for the purpose of inspection to ensure compliance with the provisions of this Ordinance. Such inspections shall be carried out during business hours unless the Administrator determines that an emergency exists. Entry onto private property for the purpose of inspection shall be made only after securing permission from the owner. Application for any development approval shall constitute permission to inspect a property. Failing permission, no inspection shall be undertaken without an order from a court of competent jurisdiction.

**2.1.5. ENFORCEMENT.**

The Administrator may hereby commence an action to enforce the provisions of this Ordinance pursuant to NCGS § 160A-389, and § 1.6 of this Ordinance.

**2.2. BOARD OF ADJUSTMENT.**

**2.2.1. ESTABLISHMENT.**

Pursuant to NCGS § 160A-388, there is hereby established the Board of Adjustment of the Town of Harrisburg. In accordance with § 2.3 of this Ordinance, the Planning and Zoning Board shall act in the capacity of the Board of Adjustment, in addition to its capacity as planning agency.

**2.2.2. POWERS AND DUTIES.**

**2.2.2.1.** Pursuant to NCGS § 160A-388, the Board of Adjustment shall have the following powers, duties and authority:

- To hear and decide appeals from the decisions of the Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the Administrator in the enforcement of this Ordinance (NCGS § 160A-388(b1)).
- To hear and decide on applications for variances from the terms of the zoning ordinance pursuant to § 3.7 of this Ordinance and NCGS § 160A-388(d). The Board shall have the authority to place conditions, including time limits, on variances.
- To approve, approve with conditions, or deny applications for conditional use permits.
- To hear and decide Conditional Use Permits in accordance with standards and procedures specified in this Ordinance (NCGS § 160A-388(c))
- The Board of Adjustment shall exercise such other powers as may be granted by this Ordinance.

**2.2.2.2. Quasi-judicial Procedures.** The consideration of any appeal, variance, conditional use permit or interpretation, as provided above, shall be in accordance with the quasi-judicial procedures as set forth in § 3.1.7 and § 3.7 of this Ordinance.

**2.2.2.3.** Any quasi-judicial matter pertaining to property in the extra-territorial jurisdiction of the Town shall only be considered by the Board with the extra-territorial jurisdiction member present.

**2.2.2.4.** The Board of Adjustment shall adopt all rules and procedures necessary or convenient for the conduct of its business, consistent with the North Carolina General Statutes.

**2.2.2.5. Limitations of Board.** The Board of Adjustment shall not have power, jurisdiction, or authority to consider any of the following:

- Make any changes in permitted uses on any zoning classification or zoning district.
- Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

**2.2.3. MEMBERSHIP.**

**2.2.3.1.** The Town Council shall appoint five (5) regular members and two (2) alternate members to the Board of Adjustment as provided in NCGS § 160A-388 and § 2.3 of this Ordinance. All seven of the regular and alternate members shall be the same persons as are appointed as regular members of the Planning and Zoning Board as provided in § 2.3.3.1. The membership shall include proportional representation for extraterritorial areas, as provided in NCGS § 160A-362.

**2.2.3.2.** Members may be compensated per diem, based upon meetings actually attended and reasonable and necessary expenses, as determined by the appointing Board or by intergovernmental agreement.

**2.2.3.3.** All members shall serve a term of three (3) years. Members may be re-appointed as necessary by the Town Council.

**2.2.3.4.** The Town Council may remove any member of the Board of Adjustment for just cause, as may be permitted by law. The Town Council shall provide the member with a public hearing, if requested.

**2.2.3.5.** If any member of the Board of Adjustment shall fail to attend three consecutive (3) regular meetings of the Board within any three-month period, it will be sufficient grounds for termination of the member's appointment. The chair or the vice-chair, as the case may be, shall immediately file a notification

of such nonattendance with the Town Council for placement on the Council agenda. The Town Council may, by appropriate action, terminate the appointment of such person and fill the vacancy as soon as possible.

**2.2.3.6. Recording Secretary.** The Administrator shall appoint a recording secretary to serve the Board of Adjustment. The secretary shall keep minutes to summarize all proceedings, all attested to by a majority of the members of the Board of Adjustment voting. Minutes of the proceedings of the Board of Adjustment showing the vote of each member and records of its examinations and other official actions shall be filed in the office of the Board as a public record. The Planning Department is hereby designated as the office of the Board for purposes of this subsection. In addition, the secretary shall maintain all records of Board of Adjustment meetings, hearings and proceedings, as well as the correspondence of the Board of Adjustment.

**2.2.3.7. Staff.** The Administrator shall be the professional staff of the Board of Adjustment.

**2.3. PLANNING AND ZONING BOARD.**

**2.3.1. ESTABLISHMENT.**

Pursuant to NCGS § 160A-361, there is hereby established a planning agency known as the Planning and Zoning Board of the Town of Harrisburg.

**2.3.2. POWERS AND DUTIES.**

**2.3.2.1.** The Board shall provide an advisory function to assist in making decisions pertaining to amendments to the Comprehensive Plan and this Ordinance, and applications for development approval. The Board shall have the following powers and duties:

- To exercise any of the powers and/or duties assigned pursuant to NCGS § 160A-361 including, but not limited to, the preparation of a comprehensive plan;
- To prepare amendments to the plan and its elements and to submit the amendments to the Town Council;
- To initiate, hear, review, and make recommendations to the Town Council on applications for amendments to the text of this Ordinance.
- To hear, review, and make recommendations to the Town Council on applications for amendments to the Official Zoning Map.
- To hear, review, and make recommendations to the Town Council on all applications for major subdivision approval in accordance with the rules and regulations established in Article 6; and
- To adopt bylaws, policies, procedures, and regulations for the conduct of its meetings, the consideration of applications for development approval, and for any other purposes deemed necessary for the functioning of the Board. All bylaws, policies, procedures, and regulations shall be consistent with this Ordinance and shall be approved by the Town Council before taking effect.

**2.3.3. MEMBERSHIP.**

**2.3.3.1.** The Town Council shall appoint seven (7) regular members to the Planning and Zoning Board as provided in this Ordinance. The membership shall include proportional representation for extraterritorial areas, as provided in NCGS § 160A-362.

**2.3.3.2.** The Town Council may remove any member of the Planning and Zoning Board for just cause, as may be permitted by law. The Town Council shall provide the member with a public hearing if requested.

**2.3.3.3.** Members may be compensated per diem, based upon meetings actually attended and reasonable and necessary expenses, as determined by the Town Council.

**2.3.3.4.** All members shall serve a term of three (3) years. Members may be re-appointed as necessary by the Town Council.

**2.3.3.5.** At an annual organizational meeting, the members of the Board shall elect one (1) of their members as chair and one (1) as vice-chair. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both, the Board shall elect a temporary chair to conduct the meeting.

**2.3.3.6.** The chair, or in the chair's absence the vice-chair, shall administer oaths, be in charge of all proceedings before the Board, and take such action necessary to preserve the order and integrity of all proceedings before the Board.

**2.3.3.7.** If any member of the Board shall fail to attend three consecutive (3) regular meetings of the Board within any three-month period, the chair or the vice-chair shall immediately file a notification of such nonattendance with the Town Council for placement on the Council agenda. The Town Council may, by appropriate action, terminate the appointment of such person and fill the vacancy as soon as possible.

**2.3.3.8.** The Administrator shall appoint a recording secretary to serve the Board. The secretary shall keep minutes to summarize all proceedings, attested to by a majority of the members of the Board voting. In addition, the secretary shall maintain all

records of Board meetings, hearings and proceedings, as well as the correspondence of the Board.

**2.3.3.9.** The Administrator shall serve as the professional staff of the Board.

**2.3.3.10.** No meeting of the Board may be called to order, nor may any business be transacted by the Board, without a quorum consisting of a majority of the appointed membership of the Board. The chair shall be considered for purposes of establishing a quorum and shall act as a voting member. All planning agency actions shall require the concurring vote of a majority of the members of the Board.

**2.3.4. MEETINGS, HEARINGS AND PROCEDURES.**

**2.3.4.1.** The Board shall establish a regular meeting schedule by rule. Special meetings may be requested by the Town Council, the chair of the Board, a majority of the members of the Board, or the Administrator.

**2.3.4.2.** If a matter is postponed due to lack of a quorum, the chair of the Board shall continue the meeting to the next Board meeting. The recording secretary shall notify all members and all appropriate parties of the date of the continued meeting.

## **2.4. TOWN COUNCIL.**

### **2.4.1. POWERS AND DUTIES.**

The Town Council shall render final decisions pertaining to amendments to the Comprehensive Plan and this Ordinance, except where authority for a final decision is delegated to another agency by this Ordinance. The Town Council shall render final decisions pertaining to applications for development approval where such authority is assigned pursuant to this Ordinance. The Town Council shall have the following powers and duties:

- To initiate, adopt, and amend a Comprehensive Plan.
- To initiate amendments to the text and map of this Ordinance and the Comprehensive Plan;
- To review recommendations of the Planning and Zoning Board, and make final decisions on applications for amendments to the text of this Ordinance.
- To hear, review, and approve, conditionally approve, or deny amendments to the Official Zoning Map after a recommendation of the Planning and Zoning Board has been submitted pursuant to NCGS § 160A-387.
- To hear, review, and approve or disapprove all applications for major subdivision approval after recommendation of the Planning and Zoning Board in accordance with the rules and regulations established in Article 6.
- To take such other action not otherwise delegated, as the Town Council may deem desirable and necessary to implement the provisions of this Ordinance and the Comprehensive Plan.

**2.5. HISTORIC PRESERVATION COMMISSION.**

**2.5.1. ESTABLISHMENT.**

Pursuant to NCGS § 160A-400.7, there is hereby established the Harrisburg Historic Preservation Commission, hereafter referred to as the Historic Preservation Commission or Commission, to consist of seven regular members and three alternate members appointed by the Town Council of the Town of Harrisburg. The Town Council shall establish the Commission’s compensation.

any related ordinance; propose new ordinances or laws relating to the historic districts, historic landmarks, or the development of the historical resources of the Town of Harrisburg and its environs;

**2.5.2. POWERS AND DUTIES.**

**2.5.2.1.** The Commission shall seek to promote, enhance and preserve the character of the districts. The Historic Preservation Commission is authorized and empowered to undertake reasonable actions to discharge and conduct its duties and responsibilities as outlined in this Ordinance and Part 3C, Article 19 of Chapter 160A of the General Statutes of the State of North Carolina including, but not limited to, the following:

- recommend to the Planning and Zoning Board areas to be designated by ordinance as “historic districts” and individual structures, buildings, sites, areas, or objects to be designated by ordinance as “landmarks”;
- recommend to the Town Council that designation of any area as a historic district, or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause;
- review and act upon (grant or deny) applications for Certificate of Appropriateness requests for alterations, demolition, or new construction within historic districts, or for the alteration or demolition of designated landmarks in accordance with Section 4.12.10 of this Ordinance;
- give advice to property owners concerning the treatment of the historical and visual characteristics of properties located within the districts, such as color schemes, gardens and landscaping features, and minor decorative elements;
- propose to the Town Council changes to this or

- cooperate with other Town of Harrisburg boards or commissions or with agencies of the Town or other governmental units; offer or request assistance, aid, guidance, or advice concerning matters under its purview;
- publish information about, or otherwise inform, the owners of property within the districts of any pertinent matters. Such information may be in the form of guidelines, handbooks, pamphlets, brochures, etc;
- conduct an educational program with respect to historic districts and landmarks within its jurisdiction;
- undertake programs of information, research, or analysis relating to any matters under its purview;
- report violations of this ordinance or related ordinances to the Planning Director responsible for enforcement;
- assist Town of Harrisburg staff in obtaining the services of private consultants to aid in carrying out programs of research or analysis;
- acquire by any lawful means, the fee or any lesser included interest, including options to purchase properties within established districts or any properties designated as landmarks:
  - to hold, manage, preserve, restore, and improve the same
  - to exchange or dispose of the property by public or private sale, lease, or otherwise, subject to covenants or other legally binding restrictions
  - to secure appropriate rights of public access and promote the preservation of the property;
- accept funds granted to the Commission from private or nonprofit organizations;

- contract, with the approval of the Town Council, for services or funds from the State of North Carolina and agencies or departments of the United States government;
- recommend to the Town Council and the State of North Carolina structures, sites, objects, or districts worthy of national, state or local recognition;
- negotiate at any appropriate time with the owner of a building, structure, site, area, or object for its acquisition or its preservation when such action is reasonable, necessary, or appropriate;
- establish guidelines under which the Planning Director or his designee may approve minor modifications on behalf of the Commission. No application shall be denied without first being considered by the Commission;
- conduct public hearings on applications for Certificates of Appropriateness where the Commission deems that such a hearing is necessary;
- organize itself and conduct its business by whatever legal means it deems proper; and
- exercise such other powers and perform such other duties as are required elsewhere by this Ordinance, the General Statutes of North Carolina, or by the Town Council.

**2.5.3. MEMBERSHIP.**

**2.5.3.1.** Members of the Historic Preservation Commission shall serve overlapping terms. Appointments shall be for a term of three years. A member may be reappointed for a second consecutive term. After two consecutive terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of termination of the second term.

**2.5.3.2.** All members of the Historic Preservation Commission shall be residents of the territorial zoning jurisdiction of the Town of Harrisburg and a majority of the members shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields.

**2.5.3.3.** The Historic Preservation Commission

shall establish a meeting time, and shall meet at least quarterly. All meetings of the Commission shall be open to the public and reasonable notice of the time and place thereof shall be given to the public. All meetings shall conform to the North Carolina Open Meetings Law General Statute 143-33B.

**2.5.3.4.** Any member of the Historic Preservation Commission who misses more than three consecutive regular meetings or more than half the regular meetings in a calendar year shall lose status as a member of the Commission and shall be replaced or reappointed by the Town Council. Absence due to sickness, death, or other emergencies shall be recognized as approved absences. In the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

**2.5.3.5.** The Historic Preservation Commission shall adopt and publish rules of procedure for the conduct of its business.

**2.5.3.6.** An annual report shall be prepared and submitted by June 30 of each year to the Town Council. Such report shall include a comprehensive and detailed review of the activities, problems, and actions of the Commission, as well as any budget requests and/or recommendations.

**2.5.3.7.** The Commission shall keep permanent minutes of all its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations, and actions. The minutes of the Commission shall be public record.