

ARTICLE 3. REVIEW BODIES

3.1. ADMINISTRATION

3.1.1. Procedure

A. Rules of Procedure

Boards and Commissions set out in this article may adopt rules and regulations governing their procedures in consistency with the provisions of this UDO.

B. Minutes

Each Board or Commission shall maintain accurate minutes of each meeting set out in this article, showing the vote of each member on each decision, or if absent or failing to vote, indicating such fact.

C. Meetings

All meetings of Boards and Commissions shall be open to the public, and an agenda shall be made public according to administrative procedures.

3.1.2. Maintenance of the Public Trust

A. Oath of Office

Pursuant to G.S. § 160D-309, all members appointed to Boards and Commissions shall take the oath of office as required.

B. Conflicts of Interest

Pursuant to G.S. § 160D-109, no elected or appointed board member or administrative staff shall make a final decision as required by this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on themselves, 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.

3.2. TOWN COUNCIL

3.2.1. Powers and Duties

The Town Council shall have the power to appoint members of the Planning Commission and the Board of Adjustment (BOA) as well as those responsibilities enumerated in Article 4, Review Procedures. The Council may also appoint temporary advisory commissions or committees from time to time.

3.3. PLANNING COMMISSION

3.3.1. Creation

Pursuant to G.S. § 160D-301, there shall be a permanent Planning Commission (occasionally referred to herein as “Planning Board”) established to advise the Town Council on planning, zoning, and land use matters. The Planning Director shall oversee and facilitate the operations of the Planning Commission.

3.3.2. Membership and Terms

A. Number

Per G.S. § 160D-301, Planning Commission shall consist of seven members. The number of Planning Commission members representing in-Town members and ETJ area members shall be distributed proportionally using the most recent decennial Census.

B. Appointment

In-Town members shall be appointed by the Town Council and shall reside within the Town of Garner’s corporate limits. The Wake County Board of Commissioners shall appoint the remainder of the Planning Commission, in accordance with the provisions of G.S. § 160D-307(b). If the Wake County Board of Commissioners fails to make these appointments within 90 days after receiving a written request from the Town Council, the Council may make the appointments.

C. Terms

Members shall be appointed for two-year staggered terms. Members shall continue to serve until their successors have been appointed.

D. Term Limits

Planning Board members may be appointed for up to three consecutive two-year terms.

E. Current Members

Members of the Planning Commission on the effective date of this UDO shall continue to serve until their respective terms expire.

F. Vacancies

Vacancies shall be filled for the unexpired term. Filling of a portion of a full term shall not count against the term limits of section 3.3.2.D.

G. Removal

Members may be removed by the Town Council for failure to attend three consecutive meetings without having been excused, for failure to attend 30 percent of the meetings within any 12-month period, or for other good cause related to performance of duties.

3.3.3. Officers, Meetings and Rules of Procedure

- A. Each year, at its first regular meeting during the month of July or as soon thereafter, time being of the essence, the Planning Board shall elect officers, including a Chair and a Vice Chair, and may set rules of procedure (consistent with G.S. § 160D-308), which are recorded in a separate document, maintained by the Planning Director. Officers may be reelected for successive terms without limitation.
 - 1. The Chair shall preside over Planning Commission meetings and transmit reports and recommendations of the Planning Commission to the Town Council.
 - 2. The Vice Chair shall assume the duties of the Chair in his/her/their absence.
 - 3. In the absence of both the Chair or Vice Chair, a Chair pro tem shall be elected from the attending members following roll call by the Secretary.
- B. A Secretary to the Planning Commission shall be designated by the Planning Director.
- C. Elected officers shall take part in all deliberations and vote on all issues, unless absent or excused.
- D. The Planning Commission shall establish at minimum a regular schedule of monthly meetings. The Planning Commission is encouraged to attend joint public hearings with the Town Council when zoning map and UDO text amendments are presented.

3.3.4. Powers and Duties

The Planning Commission shall have the powers and duties outlined below, in addition to those enumerated in Article 4, Review Procedures.

A. Growth Recommendations

The Planning Commission shall make recommendations to the Town Council concerning plans, goals, and objectives relating to growth, development, and redevelopment within the planning jurisdiction.

B. Comprehensive Growth Plan Administration

When directed by the Town Council, the Planning Commission shall be responsible for the preparation of a Comprehensive Growth Plan and for making recommendations to the Town Council on issues related to policies, ordinances, administrative procedures, and other means for carrying out the Comprehensive Growth Plan in a coordinated and efficient manner.

C. Other Responsibilities

The Planning Commission shall have any other duties assigned by the Town Council.

3.4. BOARD OF ADJUSTMENT

3.4.1. Creation

Pursuant to North Carolina G.S. § 160D-302, the Board of Adjustment (BOA) is hereby established. The Planning Director shall oversee and facilitate the operations of the BOA.

3.4.2. Membership and Terms

A. Number

Per G.S. § 160D-302, the BOA shall consist of five regular members and three alternate members. The number of both regular and alternate BOA members representing in-Town members and ETJ area members shall be distributed proportionally using the most recent decennial Census.

B. Appointment

In-Town members shall be appointed by the Town Council and shall reside within the Town of Garner's corporate limits. The Wake County Board of Commissioners shall appoint the remainder of the BOA, in accordance with the provisions of G.S. § 160D-307(b). If the Wake County Board of Commissioners fails to make these appointments within 90 days after receiving a written request from the Town Council, the Council may make the appointments.

C. Terms

Members shall be appointed for three-year staggered terms. Members shall continue to serve until their successors have been appointed.

D. Current Members

Members of the BOA on the effective date of this Ordinance shall continue to serve until their respective terms expire.

E. Vacancies

Vacancies shall be filled for the unexpired term.

F. Removal

1. Regular members may be removed by the Town Council at any time for two consecutive unexcused absences from a BOA meeting or for a 30 percent unexcused absence rate in a 12-month period. An unexcused absence is one without reasonably adequate notice to an appropriate alternate member, BOA Chair, or the Planning Director.
2. Alternate members may be removed by the Town Council for failure to respond on two consecutive occasions or on 30 percent or more of the occasions within any 12-month period when a timely request is made to such member to serve as an alternate.

3. Regular or alternate members may also be removed by the Town Council for other good cause related to performance of duties.

3.4.3. Officers, Meetings and Rules of Procedure

- A. Each year, at its first regular meeting during the month of July or as soon thereafter, time being of the essence, the BOA shall elect officers, including a Chair and a Vice Chair, and may set rules of procedure (consistent with G.S. § 160D-308), which are recorded in a separate document, maintained by the Planning Director. Officers may be reelected for successive terms without limitation.
 1. The Chair shall preside over BOA meetings and administer oaths to witnesses coming before the Board.
 2. The Vice Chair shall assume the duties of the Chairperson in his/her/their absence.
 3. In the absence of both the Chair or Vice Chair, a Chair pro tem shall be elected from the attending members following roll call by the Secretary.
- B. A Secretary to the BOA shall be designated by the Planning Director.
- C. Elected officers shall take part in all deliberations and vote on all issues, unless absent or excused.
- D. Meetings
 1. The BOA shall establish a regular meeting schedule and shall meet frequently so as to allow for expeditious processing of applications. The Board may provide in its by-laws for the calling of special meetings.
 2. Pursuant to G.S. § 160D-406(g), the BOA may issue subpoenas.

3.4.4. Quasi-judicial Decisions and Judicial Review

- A. The BOA shall make and report decisions pursuant to G.S. § 160D-406(j).
- B. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. § 160D-406(k) and § 160D-1402. A petition for review shall be filed with the superior court by the later of 30 days after the decision is effective or after a written copy thereof is delivered. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

3.4.5. Powers and Duties

The BOA shall have the powers and duties outlined below, in addition to those enumerated in Article 4, Review Procedures.

- A. Watershed Review Board

The BOA shall act as the Watershed Review Board.

B. Other Responsibilities

The BOA shall have any other power or duty assigned to it under any Town ordinance.

3.5. TECHNICAL REVIEW COMMITTEE (TRC)

3.5.1. Designation

The Planning Director shall designate a TRC consisting of the Planning Director (acting as Chair), the Town Engineer, the Building Official, and any other Town professional or outside agency representative the Planning Director deems necessary for the professional review of land use and development proposals.

3.5.2. Powers and Duties

The TRC shall have those powers and duties enumerated in Article 4, Review Procedures.

3.6. PLANNING DIRECTOR

3.6.1. Designation

The Town Manager shall designate the Planning Director for the Town of Garner.

3.6.2. Responsibility

Except as otherwise specifically provided, primary responsibility for administering and enforcing this UDO is the responsibility of the Planning Director. Where this UDO assigns a responsibility, power, or duty to the Planning Director, the Planning Director may delegate that responsibility, although the Planning Director shall be ultimately responsible for any decisions or actions made through that delegation of responsibility. The person or persons to whom these functions are assigned shall be referred to in this UDO as the “Planning Director”.

3.6.3. Powers and Duties

The Planning Director shall have the powers and duties outlined below, in addition to those enumerated in Article 4, Review Procedures.

A. Administration and Enforcement

The Planning Director shall administer and enforce the provisions of this UDO.

B. Interpretation

The Planning Director shall make written interpretations of this UDO setting forth the reasons and explanations therefore, and shall forward same to the Town Attorney.

C. Technical Review Committee

The Planning Director shall serve as the Chair for and be responsible for all final decisions of the Technical Review Committee (TRC).

D. Other Duties

The Planning Director shall perform other duties imposed under the provisions of this UDO, as amended from time to time.

3.7. OTHER OFFICIALS

3.7.1. Town Engineer

A. Designation

The Town Manager shall designate the Town Engineer for the Town of Garner.

B. Powers and Duties

In addition to those powers and duties enumerated in Article 4, Review Procedures, the Town Engineer shall monitor land use activities within the watershed areas to the extent reasonably practicable, identify situations that may pose a threat to water quality, and report all significant findings to the Watershed Review Board.

3.7.2. Building Official

A. Designation

The Town Manager shall designate the Building Official for the Town of Garner.

B. Powers and Duties

The Building Official shall have those powers and duties enumerated in Article 4, Review Procedures.