

## ARTICLE 4

### PLANNING BOARD & BOARD OF ADJUSTMENT

#### 4.1 Boards Established

The following boards are hereby established to carry out the duties and responsibilities set forth in this Ordinance and in fulfillment of the goals and purposes of this Ordinance:

(A.) Planning Board

(B.) Board of Adjustment

These boards may establish and adopt their own bylaws and rules of procedure, provided they are not inconsistent with the rules of procedure outlined in the Suggested Rules of Procedure for Small Local Government Boards, published by the Institute of Government or the rules adopted by the Town Council.

#### 4.2 Planning Board

4.2-1 Authority. There is hereby created a planning agency, pursuant to NCGS 160A-361 to be known as the Town of Stallings *Planning Board*.

4.2-2 Membership.

The *Planning Board* shall consist of nine (9) members. All members shall have equal rights, privileges and duties; except as defined for officers by adopted Rules of Procedure. All members shall be appointed for three (3) year terms except in making the original appointments. In making the original appointment three (3) members shall be appointed for a three (3) year term; three (3) members shall be appointed for a two (2) year term; and three (3) members shall be appointed for a one (1) year term.

4.2-3 Powers and Duties. The *Planning Board* shall have the following powers and duties:

(A.) To provide recommendations to the Town Council with regard to map amendments (rezoning), text amendments, watershed waivers, and other matters on which the Council seeks advice;

(B.) To develop and update a Comprehensive Land Use Plan and Master Plans for the territory under its Jurisdiction, subject to specific direction from the Town Council;

(C.) To render opinions and make recommendations on all issues, requests, and petitions related to the Stallings Development Ordinance and Comprehensive Land Use Plan that may be adopted from time to time and that require approval by the Town Council; and

(D.) To make such other studies and plans and review such other related matters as directed by the Town Council.

### 4.3 Board of Adjustment

4.3-1 Authority. Pursuant to NCGS 160A-388, there is hereby created a *Board of Adjustment*.

4.3-2 Membership.

(A.) Number of Members. The *Board of Adjustment* shall consist of seven (7) members. All members shall have equal rights, privileges and duties; except as defined for officers by adopted rules of Procedure. All members shall be appointed for three (3) year terms except in making the original appointments. In making the original appointment three (3) members shall be appointed for a three (3) year term; three (3) members shall be appointed for a two (2) year term; and one (1) member shall be appointed for a one (1) year term.

(B.) Alternates. The Town Council may, in its discretion, appoint alternate members to serve on the *Board of Adjustment* in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving on behalf of any regular member, shall have and may exercise all the powers and duties of a regular member. (G.S. 160A-388(a))

4.3-3 Powers and Duties. The *Board of Adjustment* shall have the following powers and duties:

(A.) To hear and decide appeals from an order, denial of a permit or other written decision made by an administrative official charged with enforcing this Ordinance;

(B.) To hear and decide requests for variances from the zoning provisions of this Ordinance in cases where special conditions would make strict and literal interpretation result in a loss of privileges shared by other properties within the same zoning district;

(C.) To act as the Stormwater Advisory Committee in hearing and deciding appeals from any decision or determination made by the Storm Water Administrator in the enforcement of the *Pre-Construction Storm Water Ordinance* as set forth in Article 19 of this Ordinance;

(D.) To hear and decide appeals and requests for variances from the requirements of the *Flood Damage Prevention* provisions of this Ordinance, as set forth in Article 18; and

(E.) To hear and decide all matters referred to it or upon which it is required to pass under this Ordinance and/or any ordinance duly adopted wherein the Board of Adjustment is designated to hear appeals or other duties.

4.3-4 Voting.

A four-fifths vote of the members shall be required to grant a variance; otherwise, a simple majority of the Board membership shall be required to affirm, reverse or modify any written order, decision, or interpretation of the Enforcement Officer charged with enforcing this Ordinance; to decide in favor of the applicant on a matter [other than variances] upon which the Board is required to pass; Vacant positions on the *Board of Adjustment* and members who are disqualified from voting on a matter before the *Board of Adjustment* 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.

4.3-5 Conflicts. A member of the *Board of Adjustment* shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recues himself or herself, the remaining members shall by majority vote rule on the objection. (G. S. 160A-388).

4.3-6 Proceedings.

All meetings of the *Board of Adjustment* shall be open to the public. The Board shall keep minutes showing the vote of each member on each question and the absence or failure of any member to vote.

The final disposition of each matter decided by the *Board of Adjustment* shall be by recorded resolution indicating the reasons for the decision, based on findings of fact obtained by testimony under oath or affirmation and conclusions of law which shall be public record.

On all appeals, applications and other matters brought before the *Board of Adjustment*, the Board shall inform in writing all the parties involved of its decision and the reasons for that decision.

#### **4.4 Meetings, Hearings, and Procedures of all Boards**

All meetings and hearings shall be open to the public and shall be conducted in accordance with the procedures set forth in these regulations and with the rules of procedure adopted for the *Planning Board*, and *Board of Adjustment*. Rules of procedure may be amended by the respective board membership; however, such amendment shall be approved by the Town Council to become effective.

The rules of procedure shall be kept on file at the office of the *Development Administrator* and shall be made available to the public at any meeting or hearing. No rules or procedures shall conflict with this Ordinance; if conflicts occur this Ordinance shall take precedence.

#### **4.5 Staff**

The *Development Administrator* shall serve as staff to the *Planning Board*, and *Board of Adjustment*; and shall provide technical assistance to the *Planning Board*, and *Board of Adjustment*, as requested.