

ARTICLE III

ADMINISTRATIVE MECHANISMS

Part I. Planning Board

Section 21 Appointment and Terms of Planning Board Members.

(a) There shall be a Planning Board consisting of seven members. Five members, appointed by the Town Council, shall reside within the town. Two members, appointed by the County Board of Commissioners, shall reside within the town's extraterritorial planning area. If a larger number of extraterritorial members is needed to comply with the proportional representation requirements of NCGS 160A-362, the Town Council shall submit to the County Board of Commissioners a resolution requesting that an additional member or members, as appropriate, be appointed. Proportional representation shall be determined by calculating the proportional relationship of the extraterritorial area population to the municipal population and applying that proportional relationship to the total membership of the Planning Board. An additional member must be appointed to the Planning Board to achieve proportional representation only when the population of the entire extraterritorial area constitutes a full fraction of the town's population divided by the total membership of the Planning Board. Once the Town of Edenton provides proportional representation, no power available to it under NCGS 160A-360 shall be ineffective in its extraterritorial area solely because county appointments have not yet been made. If the County Board of Commissioners fails to make appointments within 90 days after receiving a resolution from the Town Council requesting that they be made, the Town Council may make the appointments. *(Amended 1/14/03)*

(b) Planning Board members shall be appointed for three-year staggered terms, but members may continue to serve until their successors have been appointed. Vacancies may be filled for the unexpired terms only.

(c) Members may be appointed to up to three successive terms. If special circumstances warrant, the Town Council may appoint a member to serve one additional term. *(Amended 7/99)*

(d) Planning Board members may be removed by the Council at any time for failure to attend three consecutive meetings or for failure to attend thirty percent or more of the meetings within any twelve-month period or for any other good cause related to performance of duties. Upon request of the member proposed for removal, the Council shall hold a hearing on the removal before it becomes effective.

(e) If an in-town member moves outside the town or if an extraterritorial area member moves outside the planning jurisdiction, that shall constitute a resignation from the Planning Board, effective upon the date a replacement is appointed by the Council or County Board of Commissioners for ETJ members. *(Amended 7/99)*

Section 22 Meetings of the Planning Board.

(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 67 (Applications to be Processed Expeditiously).

(b) Since the board has only advisory authority, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Articles IV, V, and VI. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.

(c) Minutes shall be kept of all board proceedings.

(d) 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.

(e) Whenever the board is called upon to make recommendations concerning a conditional use permit request, special use permit request, or a zoning amendment proposal, the administrator shall provide the same public hearing notice as required in Sections 54 and 323.

Section 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.

Section 24 Planning Board Officers.

(a) At its first meeting in June 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 persons so designated shall serve in these capacities for terms of one year. A secretary shall be appointed by the chairman of the board, either from within or outside of its membership, to hold office during the term of the chairman and/or until a successor secretary shall have been appointed. The duties of the secretary shall be as directed by the Board in its by-laws. 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, vice-chairman and secretary (if appointed from among the membership) may take part in all deliberations and vote on all issues.

Section 25 Powers and Duties of Planning Board.

(a) The Planning Board may:

- (1) Make studies and recommend to the Council plans, goals and objectives relating to the growth, development and redevelopment of the town and the surrounding extraterritorial planning area.
- (2) Develop and recommend to the Council policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner.
- (3) Make recommendations to the Council concerning proposed conditional use permits and proposed zoning map changes, as provided by Sections 57 and 322.
- (4) Perform any other duties assigned by the Council.

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

Section 26 Advisory Committees.

(a) From time to time, the Council may appoint one or more individuals to assist the Planning Board to carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the Council may appoint advisory committees to consider the thoroughfare plan, 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. However, all formal recommendations to the Council shall be made by the Planning Board.

(c) Nothing in this section shall prevent the Council from establishing independent advisory groups, committees, or boards to make recommendations on any issue directly to the Council.

Sections 27 through 28 Reserved.

Part II. Board of Adjustment

Section 29 Appointment and Terms of Board of Adjustment.

(a) There shall be a Board of Adjustment consisting of five regular members and two alternates. Four regular members and one alternate, appointed by the Council, shall reside within the town. One regular member and one alternate, appointed by the County Board of Commissioners, shall reside within the town's extraterritorial planning area. If a larger number of extraterritorial members is needed to comply with the proportional representation requirements of NCGS 160A-362, the Town Council shall submit to the County Board of Commissioners a resolution requesting that an additional member or members, as appropriate, be appointed. Proportional representation shall be determined by calculating the proportional relationship of the extraterritorial area population to the municipal population and applying that proportional relationship to the total membership of the Board of Adjustment. An additional member must be appointed to the Board of Adjustment to achieve proportional representation only when the population of the entire extraterritorial area constitutes a full fraction of the town's population divided by the total membership of the Board of Adjustment. Once the Town of Edenton provides proportional representation, no power available to it under NCGS 160A-360 shall be ineffective in its extraterritorial area solely because county appointments have not yet been made. If the County Board of Commissioners fails to make appointments within 90 days after receiving a resolution from the Town Council requesting that they be made, the Town Council may make the appointments. *(Amended 7/99)*.

(b) Board of Adjustment regular members and alternates shall be appointed for three-year staggered terms, but both regular members and alternates may continue to serve until their successors have been appointed. Initially, two regular in-town members and one extraterritorial area alternate member shall be appointed for three-year terms, one regular in-town member and one regular extraterritorial area member shall be appointed for two-year terms, and one regular in-town member and one in-town alternate shall be appointed for one-year terms. Vacancies may be filled for the unexpired terms only.

(c) Members may be appointed to up to three successive terms. If special circumstances warrant, the Town Council may appoint a member to serve one additional term. *(Amended 7/99)*.

(d) Regular Board of Adjustment members may be removed by the Council at any time for failure to attend three consecutive meetings or for failure to attend thirty percent or more of the meetings within any twelve month period or for any other good cause related to performance of duties. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures. Upon request of the member proposed for removal, the Council shall hold a hearing on the removal before it becomes effective.

(e) If a regular or alternate in-town member moves outside the town, or if an extraterritorial area regular or alternate member moves outside the planning jurisdiction, that shall constitute a resignation from the board, effective upon the date a replacement is appointed.

(f) Extraterritorial area members may vote on all matters coming before the board.

(g) The in-town alternate may sit only in lieu of a regular in-town member and the extraterritorial area alternate may sit only in lieu of the regular extraterritorial area member. When so seated, alternates shall have the same powers and duties as the regular member they replace.

Section 30 Meetings of the Board of Adjustment.

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

(b) The board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in Articles IV, V, and VI.

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

Section 31 Quorum.

(a) A quorum for the Board of Adjustment shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats). A quorum is necessary for the board to take official action.

(b) A member who has withdrawn from the meeting without being excused as provided in Section 32 shall be counted as present for purposes of determining whether a quorum is present.

Section 32 Voting.

(a) The concurring vote of four-fifths of the regular board membership (excluding vacant seats) shall be necessary to reverse any order, requirement, decision, or determination of the administrator or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance (including the issuance of a special use permit) or to grant any variance. All other actions of the board shall be taken by majority vote, a quorum being present.

(b) Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection (c) or has been allowed to withdraw from the meeting in accordance with subsection (d).

(c) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:

- (1) If the member has a direct financial interest in the outcome of the matter at issue; or
- (2) If the matter at issue involves the member's own official conduct; or
- (3) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or
- (4) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.

(d) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

(e) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.

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

Section 33 Board of Adjustment Officers.

(a) At its first regular meeting in June, the Board of Adjustment shall, by majority vote of its membership (excluding vacant seats) elect one of its regular members to serve as chairman and preside over the board's meetings and one regular member to serve as vice-chairman. The persons so designated shall serve in these capacities for terms of one year. Vacancies may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats). *(Amended 11/13/07).*

(b) The chairman or any member temporarily acting as chairman may administer oaths to witnesses coming before the board.

(c) The chairman and vice-chairman of the Board of Adjustment may take part in all deliberations and may vote on all issues.

Section 34 Powers and Duties of Board of Adjustment.

(a) The Board of Adjustment shall hear and decide:

- (1) Appeals from any order, decision, requirement, or interpretation made by the administrator, as provided in Section 91.
- (2) Applications for special use permits, as provided in Subsection 46(a).
- (3) Applications for variances, as provided in Section 92.
- (4) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in Section 94.
- (5) Any other matter the board is required to act upon by any other town ordinance.

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

Section 35 Fees for Permits and Appeals.

See Article 1, Section 8.

Section 36 Reserved.

Part III. Land Use Administrator

Section 37 Land Use Administrator.

Except as otherwise specifically provided, primary responsibility for administering and enforcing this chapter may be assigned to one or more individuals by the town manager. The person or persons to whom these functions are assigned shall be referred to in this chapter as the "land use administrator" or "administrator." The term "staff" is sometimes used interchangeably with the term "administrator." As provided in Sections 78 and 79, the land use administrator is authorized to approve major subdivisions, once a conditional use permit has been approved by the Town Council, and minor subdivisions.

Section 38 and 39 Reserved.

Part IV. Town Council

Section 40 The Town Council.

(a) The Town Council, 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 IV and VI of this chapter.

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

(c) Unless otherwise specifically provided in this chapter, in acting upon conditional use permit requests or in considering amendments to this chapter or the zoning map, the Council shall follow the regular, voting, and other requirements as set forth in other provisions of the town code, the town charter, or general law.

(d) The Town Council, in considering the approval of a site specific development plan (as defined in Section 328, Vested Right), shall follow the procedural requirements set forth in Articles IV and VI of this Ordinance for the issuance of a conditional use permit. **(Amended 6/13/95)**

Part V. Edenton Preservation Commission

Section 41 Appointment and Terms of Historic Commission.

(a) There shall be an Edenton Preservation Commission consisting of seven members. The members shall be appointed by the Town Council for four-year terms. Appointments shall be made in June and shall be effective June 30th. *(Amended 02/10/2009)*

(b) Members may be appointed to up to three successive terms. If special circumstances warrant, the Town Council may appoint a member to serve one additional term. *(Amended 7/99)*

(c) A majority of the members shall have demonstrated special interest, experience, or education in history or architecture and all members shall reside within the territorial jurisdiction of the Town of Edenton as established pursuant to NCGS 160A-360.

(d) Faithful and prompt attendance at all meetings of the Commission and conscientious performance of the duties required of members shall be a prerequisite to continuing membership on the Commission. Should a member fail to attend three consecutive regular meetings of the Commission, and should there be no adequate excuse for such absences, the Chairman, with the concurrence of a majority of the entire Commission, shall recommend to the Town Council that a vacancy be declared and that the vacated position be filled.

Section 42 Meetings of the Edenton Preservation Commission.

(a) Regular meetings of the Commission shall be held on the second Monday of each month at 1:15 p.m. in the Town Hall; provided that meetings may be held at some other convenient place if directed by the Chairman in advance of the meeting. *(Amended 1/14/03)*

(b) Special meetings of the Commission may be called at any time by the Chairman. At least forty-eight hours notice of the time and place of special meetings shall be given, by the Secretary or by the Chairman, to each member of the Commission; provided that this requirement may be waived by action of a majority of all the members.

(c) Whenever there is no business for the Commission, the Chairman may dispense with a regular meeting by giving notice to all the members not less than twenty-four hours prior to the time set for the meeting.

(d) All meetings shall be open to the public. The business at regular meetings shall include: (i) roll call; (ii) approval of minutes of previous meetings; (iii) unfinished business; (iv) consideration of applications; (v) reports of committees; and (vi) adjournment.

Section 43 Quorum and Voting.

(a) A quorum for the Edenton Preservation Commission shall consist of four members of the Commission membership (excluding vacant seats). A quorum is necessary for the Commission to take official action. *(Amended 3/13/2001)*

(b) All actions of the Commission shall be taken by majority vote, a quorum being present.

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

Section 44 Edenton Preservation Commission Officers.

(a) At its first regular meeting in February of each year, the Edenton Preservation Commission shall, by majority vote of its membership (excluding vacant seats), elect one of its members to serve as chairman and preside over the commission meetings and one member to serve as vice-chairman.

A member of the town staff shall be appointed by the Edenton Town Manager to serve as secretary to the Commission. The duties of the officers shall be as directed by the Commission in its by-laws. Vacancies in the office of chairman and vice-chairman may be filled for the unexpired terms only by majority vote of the Commission membership. *(Amended 3/13/2001)*

(b) The chairman and vice chairman may take part in all deliberations and vote on all issues. The secretary shall not be eligible to vote upon any matter.

Section 45 Powers and Duties of the Edenton Preservation Commission.

(a) The Edenton Preservation Commission shall:

- (1) Review applications for Certificates of Appropriateness for constructing, altering, or demolishing buildings or structures within the designated Historic District.
- (2) Issue Certificates of Appropriateness in accordance with the procedures delineated in Sections 168(d) and (e).
- (3) Perform any other duties assigned by the Town Council. *(Amended 3/13/2001)*

(b) The Commission may request the N.C. Department of Cultural Resources or the N.C. Historic Commission to review, comment on, and make recommendations upon all applications for a Certificate of Appropriateness.

(c) The Commission may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this ordinance and NCGS 160A-395 thru 160-399.

Section 45.1 Designation of Historic District.

(a) It is the intent of this section to make provisions within this ordinance (1) to safeguard the heritage of the Town of Edenton by preserving any area which reflects elements of its cultural, social, economic, political, or architectural history; (2) to stabilize and improve property values in such areas; (3) to foster civic beauty; (4) to strengthen the local economy; and (5) to promote the use and preservation of such areas for the education, welfare, and pleasure of residents of Edenton and the State as a whole.

(b) The Town Council may designate from time to time one or more Historic Districts within the jurisdictional boundaries of the Town. No Historic District(s) shall be designated until:

- (1) An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district and a description of boundaries of such district has been prepared, and reports required by subdivision (1) of this section shall be prepared by the Edenton Preservation Commission, and shall be referred to the local planning board for its review and comments according to the procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the Department of Cultural Resources in accordance with the provisions of the subdivision (2) of this section. *(Amended 03/13/2001)*
- (2) The Department of Cultural Resources, acting through an agent or employees designated by its secretary, shall have made an analysis of and recommendations

concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the municipal governing body within thirty (30) calendar days after a written request for such analysis has been mailed to it shall relieve the municipality of any responsibility for awaiting such analysis, and said body may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

- (c) The municipal governing body may also, in its discretion, refer the report and proposed boundaries to any local historic properties commission or other interested body for its recommendations prior to taking action to amend the zoning ordinance. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subdivision (1) of this section shall be prepared by the Edenton Preservation Commission, and shall be referred to the local planning board for its review and comments according to procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the Department of Cultural Resources in accordance with the provisions of subdivision (2) of this section. *(Amended 3/13/2001)*
- (d) On receipt of these reports and recommendation, the municipality may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning ordinance provisions. *(Amended 5/14/91)*