

ARTICLE 3. ADMINISTRATIVE MECHANISMS

PART I. PLANNING AND ZONING BOARD

Section 3-1: Membership and Vacancies (revised 2-10-11)

The planning board shall consist of seven (7) members and two (2) alternate members. Five (5) members and one (1) alternate member shall be citizens and residents of the city and shall be appointed by the Board of Aldermen. Two (2) members and (1) alternate member shall be citizens and residents of the extra-territorial jurisdiction of the city as described pursuant to G.S. § 160A-360 et seq. and shall be appointed by the county Board of Commissioners. The City Clerk will advertise for vacancies when they occur. All candidates, including board members whose terms are expiring and who are seeking reappointment, must have an application no less than thirty (30) days prior to the Board of Aldermen meeting in which the selection(s) are made and [no older than ninety (90) days prior to the date of vacancy] on file with the City Clerk's office and must inform the Clerk they wish to be considered for the vacant position. All applicants must be interviewed by a committee, selected by the Board of Aldermen, consisting of two (2) Board of Aldermen members and the Chairman of the Planning Board. If the Chairman's term is expiring and he/she wants to apply for reappointment, the Vice-Chairman of the Planning Board will be selected for the committee. The committee will make recommendations to the Board of Aldermen for the vacant position(s). Any citizen who has filed a current application and completed the interview shall be eligible for nomination. Citizens who have not met these requirements are not eligible for nomination to the Planning Board. The City Clerk will place the applications of all candidates who meet these requirements in the agenda packets prior to the meeting in which the selection(s) are made. Alternate members shall not be entitled to vote on matters before the planning board except when a regular planning board member is absent from a duly called meeting. In that situation, the alternate shall have the same privileges as the regular members and may count for quorum purposes and vote if a regular member is absent. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. Faithful attendance at the meetings of the board is considered a prerequisite for the maintenance of membership on the board. A vacancy shall exist on the board if a member is absent from twenty-five (25) percent or more of the board's meetings within a twelve (12) month period of time and said vacancy may be declared and filled by the Board of Aldermen. Extraterritorial representatives shall have equal rights, privileges, and duties with the other members of the board to which they are appointed, regardless of whether the matters at issue arise within the city or within the extraterritorial area.

Section 3-2: Rules of Conduct

Members of the Board may be removed for cause, including violation of any rule stated below:

- (A) Faithful attendance at all meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite of continuing membership on the Board. Absence from four (4) regularly scheduled Board meetings during any one calendar year shall be considered cause for a recommendation to the Board of Aldermen of dismissal from the Board.
- (B) Members of the Planning Board shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.
- (C) No Board member shall discuss any case with any parties thereto prior to the meeting on that case; provided however, that members may receive and/or seek information pertaining to the case from any other member of the Board, or staff prior to the meeting. Board members shall disclose publicly any contact made by any party to a matter before the Board.
- (D) Members of the Board shall not express individual opinions on the proper judgment of any case with any parties thereto prior to the Board's determination of that case. Violation of this rule shall be cause for dismissal from the Board.

Section 3-3: Meetings

- (A) Meetings of the Planning and Zoning Board will normally occur on the third Thursday of the month at a time and place designated by the Board and shall be open to the public. A quorum shall consist of four (4) members of the Board.
- (B) All regular members may vote on any issue unless they have disqualified themselves for one or more of the reasons listed in Section 3-2. A vote of a majority of the members present and voting shall decide issues before the Board.

- (C) Special meetings may be called by the Chairperson. It shall be the duty of the Chairperson to call such a meeting upon a recommendation of the Board. During a special meeting, no other business may be considered except that which was specified by advanced notice. The Clerk shall notify all members of the Board in writing not less than five (5) days in advance of such special meeting. Notice of time, place, and subject of such meeting shall be published in a newspaper having general circulation in the City of Southport when possible in accordance with G.S. 143-128.12(b).
- (D) The order of business at regular meetings shall be as follows:
 - (1) Call to Order;
 - (2) Approval of Minutes of Previous Meetings;
 - (3) Approval of the Agenda;
 - (4) Public Input;
 - (5) Unfinished Business;
 - (6) New Business;
 - (7) Announcements;
 - (8) Adjournment.
- (E) The petitioner or applicant who is on the agenda may withdraw the petition or application at anytime; but if a motion is pending to make a recommendation to grant or deny, such motion shall have precedence.
- (F) The Board shall render its decisions in the form of a recommendation on any properly filed petition or application within sixty (60) days after its first planning board meeting following submittal and shall transmit a signed copy of the decision to the Administrator to submit to the Board of Aldermen for consideration. The sixty (60) day time period will not begin until the petitioner has furnished the Administrator with all required permits. The decision shall be in the form of a letter signed by the Chairperson and Clerk and attached to the minutes. Such letter shall indicate the reasons for the Board's determination and its findings.

Section 3-4: General Powers and Duties

It shall be the duty of the Planning Board, in general, to:

- (A) Acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions.

- (B) Prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical, social, and economic development of the area.
- (C) Establish goals and policies for guiding action in the development of the area.
- (D) Prepare and recommend to the Board of Aldermen ordinances promoting orderly development along the lines indicated in the comprehensive plan.
- (E) Determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area.
- (F) Keep the Board of Aldermen and the general public informed and advised as to these matters.
- (G) Make recommendations for the timely implementation of programs to meet the goals and policies as adopted in the comprehensive plan.
- (H) Perform any other duties which may be lawfully assigned to it.

Section 3-5: Basic Studies

As background for its comprehensive plan and any ordinances it may prepare, the Planning Board may gather maps and aerial photographs of manmade and natural physical features of the area, statistics on past trends and present conditions with respect to population, property values, the economic base of the community, land use, and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts. The Planning Board may make studies as to the community's social, economic, as well as its physical needs. In addition, the Planning Board may make, cause to be made, or obtain special studies on the location, condition, and adequacy of specific facilities, which may include but are not limited to studies of housing; commercial and industrial facilities; parks, playgrounds, and recreational facilities; public and private utilities; and traffic, transportation, and parking facilities. All city officials shall, upon request, furnish to the Planning Board such available records or information as it may require in its work. The board or its agents may, in the performance of its official duties, enter upon lands and make examinations or surveys and maintain necessary monuments thereon.

Section 3-6: Comprehensive Plan

- (A) The comprehensive plan, with the accompanying maps, charts, and descriptive matter, shall be and show the Planning Board's recommendations to the Board of Aldermen for the development of such territory, including, among other things, the general location, character, and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds, and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes; the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities, or terminals; and the most desirable patterns of land use within the area.

- (B) The plan and any ordinances or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the city and its environs which will, in accordance with present and future needs, best promote health, safety, morals, and the general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities, services, and other public requirements and the improvement of the community social and economic attributes.

Section 3-7: Zoning Ordinance

- (A) The Planning Board shall prepare and submit to the Board of Aldermen for its consideration and possible adoption a zoning ordinance for the control of the height, area, bulk, location, and use of buildings and premises in the area, in accordance with the provisions of G.S. 160A-381 et seq.

- (B) The Planning Board may initiate, from time to time, proposals for amendment of the zoning ordinance, based upon its studies and comprehensive plan. In addition, it shall review and make recommendations to the Board of Aldermen concerning all proposed amendments to the zoning ordinance.

Section 3-8: Subdivision Regulations

- (A) The Planning Board shall review, from time to time, the need for regulations for the control of land subdivision in the area and submit to the Board of Aldermen its recommendations, if any, for adoption or revision of such regulations.
- (B) In accordance with such regulations, the Planning Board shall review and make recommendations to the Board of Aldermen concerning all proposed plats of land subdivision.

Section 3-9: Urban Renewal

The Planning Board shall make findings and recommendations concerning urban renewal projects in the area, as provided by G.S. 160A-500 et seq.

Section 3-10: Public Facilities

The Planning Board shall review with the city manager and other city officials and report as recommendations to the Board of Aldermen upon the extent, location, and design of all public structures and facilities, on the acquisition and disposal of public properties, and on the establishment of building lines, mapped street lines, and proposals to change existing street lines. However, in the absence of a recommendation from the Planning Board, the Board of Aldermen may, if it deems wise, after the expiration of thirty (30) days from the date on which the questions has been submitted in writing to the Planning Board for review and recommendation, take final action.

Section 3-11: Miscellaneous Powers and Duties

- (A) The Planning Board may conduct such public hearings as may be required to gather information necessary for the drafting, establishment, and maintenance of the comprehensive plan. Before adopting any such plan, it shall hold at least one (1) public hearing thereon.

- (B) The Planning Board shall have power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may determine.
- (C) Members or employees of the Planning Board, when duly authorized by the Planning Board, may attend planning conferences or meetings of planning institutes or hearings upon pending planning legislation, and the Planning Board may, by formal and affirmative vote, pay, within the Planning Board's budget, the reasonable traveling expenses incident to such attendance.

Section 3-12: Planning Board Procedures for Reporting to the Board of Aldermen

The Planning Board will submit copies of all minutes of its regular and special meetings to the Board of Aldermen. Minutes shall be submitted to the City Clerk within seven (7) days of approval of the minutes by the Planning Board.

Section 3-13: Advisory Council and Special Committees

- (A) The Planning Board may seek the establishment of an unofficial advisory council and may cooperate with this council to the end that its investigations and plans may receive fullest consideration, but the board may not delegate to such advisory council any of its official prerogatives.
- (B) The Planning Board may set up special committees to assist in the study of specific questions and problems.

PART II. BOARD OF ADJUSTMENT

Section 3-14: Creating the Zoning Board of Adjustment

- (A) A city Board of Adjustment is hereby created under the authority of the G.S. Section 160A-388.
- (B) The Zoning Board of Adjustment shall consist of seven (7) members and two (2) alternate members. Five (5) members and one (1) alternate member shall be citizens and residents of the city and shall be appointed by the Board of Aldermen. Two (2) members and one (1) alternate

member shall be citizens and residents of the extraterritorial jurisdiction of the city as described pursuant to G.S. § 160A-360 et seq. and shall be appointed by the Brunswick County Board of Commissioners. The members of the board serving on the effective date of this ordinance, under a zoning ordinance effective prior hereto, shall be considered as the five (5) members to be appointed by the Board of Aldermen, and each of these members shall serve the balance of the term to which he was appointed. The additional members of the board shall have initial terms of office as follows: one (1) member appointed for a term of one (1) year; one (1) member appointed for terms of two (2) years; and two (2) members appointed for terms of three (3) years.

- (C) The alternate members shall serve on the Board 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 the behalf of any regular member, shall have and may exercise all the powers and duties of a regular member.

Section 3-15: Meetings

The Board shall elect one of its members as Chairman and another as Vice-Chairman who shall serve for one (1) year. The Administrator shall serve as secretary to the Board of Adjustment. The Board shall draw up and adopt the rules of procedures under which it will operate. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or his absence or failure to vote, indicating such fact, and also keep records of its examination and any other official action.

A member of the Board or any other body exercising the functions 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 recuse himself or herself, the remaining member shall by majority vote rule on the objection.

For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter 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.

Section 3-16: Filing and Notice for an Appeal

Appeals from the enforcement and interpretation of this Ordinance and appeals for variances may be taken to the Board of Adjustment by any person aggrieved or by any office, department, board, or bureau of the city affected. Notice of an appeal to the Board of Adjustment shall be filed with the Administrator. An appeal stays all proceedings in furtherance of the action, unless the Administrator certifies to the Board that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record.

Hearing of the Appeal. After receipt of notice of an appeal, the Board Chairman shall schedule the time for a hearing, which shall be at a regular or special meeting.

Notice. At least one (1) week prior to the date of the hearing, the Administrator shall furnish all adjoining property owners with written notices of the hearing. Notice of Public Hearing shall be published once a week for two (2) consecutive calendar weeks in the local newspaper. Public notice may also be posted on the property concerned indicating the proposed change and date of public hearing.

Fees for Appeal or Variance. Based on the City of Southport Schedule of Fees, a fee for the cost of advertising shall be paid to the city for each appeal, to cover the necessary administrative costs and advertising. The schedule of fees is on file with the City Clerk.

Section 3-17: Power and Duties

The Board of Adjustment shall have the following powers and duties:

- (A) To hear and decide appeals where it is alleged by the appellant that there is error in any decision made by the Administrator or other administrative officials in the carrying out or enforcing of any provision of the Ordinance. A concurring vote of four-fifths (4/5) of the members of the Board shall be necessary to reverse, wholly or partly, any such decision.

- (B) To authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. A variance from the terms of this Ordinance shall not be granted by the Board unless and until the following findings are made: (see definitions, definition of variance):
- (1) That special condition and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same district;
 - (2) That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
 - (3) That the special conditions and circumstances do not result from the actions of the applicant;
 - (4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other land, structures, or buildings in the same district.
- (C) In considering conditional-use permit applications, is required to observe the procedural requirements set forth in Articles 6 and 12 of this Ordinance.

PART III. ADMINISTRATOR

Section 3-18: Administrator

Except as otherwise specifically provided, primary responsibility for administering and enforcing this Ordinance may be assigned by the city manager to one or more individuals. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the Administrator.

PART IV. BOARD OF ALDERMEN

Section 3-19: Powers and Duties

- (A) In considering proposed changes in the text of this Ordinance or in the zoning map, the Board of Aldermen acts in its legislative capacity and must proceed in accordance with the requirements of Article 4.
- (B) Unless otherwise specifically provided in this Ordinance, in considering amendments to this Ordinance or the zoning map, the Board of Aldermen shall follow the regular voting and other requirements as set forth in other provisions of the city code.