

## Chapter 14. ADMINISTRATIVE AGENCIES AND BOARDS

### 14.1 Purpose and Intent

For the efficient and effective administration of this Ordinance, the agents, boards and committees described herein are established along with their respective rules, procedures, duties and responsibilities.

### 14.2 Administrator

The authority to establish an Administrator for the Town of Knightdale is granted under the provisions of N.C.G.S. 160A §§ 361 and 373. The various provisions of this Ordinance shall be administered by the Knightdale Planning Department under the primary direction of the Planning Director. Administrative decisions may be appealed to the Land Use Review Board (*see Section 15.11*). For the purposes of the administration of this Ordinance, the Planning Director and subordinate staff are collectively referred to as the Administrator. In addition to any general actions necessary for the administration of the requirements of this Ordinance, the Administrator shall have the following specific duties and responsibilities:

- A. **Record and File Management:** To maintain records in accordance with municipal records retention laws adopted by the General Assembly;
- B. **Planning Process Applications:** To establish application requirements and schedules for submittal and review of applications and appeals;
- C. **Plan Review:** To review and approve, approve with conditions, or disapprove plan applications submitted pursuant to this Ordinance;
- D. **Recommendations:** To review and make recommendations to the Town Council on applications involving legislative matters;
- E. **Professional Assistance:** To provide expertise and technical assistance to the Town Council, upon request;
- F. **Ordinance Interpretation:** To make determinations and render interpretations of this Ordinance;
- G. **Code Enforcement:** To enforce the provisions of this ordinance in accordance with Chapter 18: *Violations and Penalties*
- H. **Board and Committee Staff:** To serve as staff to the boards and committees established herein; and
- I. **Delegation of Certain Duties:** To designate appropriate other person(s) who shall carry out the powers and duties of the Administrator.

### 14.3 Board of Adjustment Responsibilities and Duties

- A. **Town Council:** The Town Council shall serve as the Board of Adjustment in cases of Appeals of decisions by the DRC (*Section 15.5C*) and Special Use Permits (*Section 15.5E*). Hearings shall be conducted in accordance with the provisions of the UDO and N.C.G.S. §160A.388 as may be amended from time to time.
- B. **Land Use Review Board (LURB):** The LURB shall serve as the Board of Adjustment in cases of Design Exceptions (*Section 15.5B*), Appeals of decisions by the Administrator (*Section 15.5C*), Variances (*Section 15.5E*) and any other matters the LURB is required to act upon in a quasi-judicial manner as directed by any other town

ordinance or state law. Hearings shall be conducted in accordance with the provisions of the UDO and N.C.G.S. §160A.388 as may be amended from time to time.

#### 14.4 Boards and Committees

The authority to establish various boards and committees is found throughout Chapter 160A of the General Statutes, including N.C.G.S. 160A §§ 19, 361, 387, 388 and 456(c). The Town has established the following boards and standing committees which shall follow the rules of procedure as adopted by the respective board or committee:

- Land Use Review Board (LURB)
- Development Review Committee (DRC)

**A. Land Use Review Board (LURB):** For the purposes of this Ordinance, the LURB shall serve as the Town's Planning Board, the Community Appearance Commission and the Tree Board. Furthermore, a portion of the LURB membership shall serve as the Board of Adjustment for cases identified in Section 14.3.

##### 1. Appointment and Terms

- a. **Number:** There shall be a LURB consisting of nine (9) members.
  - i. **Town Members:** Six (6) members, appointed by the Town Council, shall reside within the corporate limits. Three (3) of the Town Council appointees shall also be named as quasi-judicial voting members of the Board of Adjustment.
  - ii. **ETJ Members:** Three (3) members appointed by the Wake County Board of Commissioners, shall reside within the Town's extra-territorial jurisdiction. Two (2) of the Wake County Board of Commissioners appointees shall also be named as quasi-judicial voting members of the Board of Adjustment. If despite good faith efforts, enough residents of the ETJ cannot be found to fill the seats reserved for residents of such area, then the Wake County Board of Commissioners may appoint other residents of the county (including residents of the Town) to fill these seats. If the Wake County Board of Commissioners fails to make these appointments within 90 days after receiving a resolution from the Town Council requesting that they be made, the Town Council may make them.
- b. **Board of Adjustment Alternates:** The remaining four (4) LURB members not named as quasi-judicial voting members of the Board of Adjustment in subsections 1(a)(i) and 1(a)(ii) above shall serve as voting alternates. When not filling in as an alternate for absent or excused named voting members of the Board of Adjustment, the remaining LURB members may participate in the quasi-judicial deliberations and fact finding efforts; however, they may not vote.
- c. **Citizen Planning Academy:** Prior to being seated with full voting rights, newly appointed members shall be required to attend and complete the Town's Citizen Planning Academy or its training equivalent. The Academy is a function of the Town's Planning Department and is also open to the general public. It shall be offered at least once each year to ensure that any LURB appointee will have the opportunity to take the class prior to attending their first LURB meeting.

- d. **Staggered Terms:** LURB members shall be appointed for two-year (2 year) staggered terms. Members shall continue to serve until their successors have been appointed.
- e. **Term Limits:** No person, either appointed or re-appointed by the Town Council, may serve more than three (3) consecutive full terms on LURB. A person who has served three (3) consecutive full terms shall be eligible for re-appointment after a lapse in service of at least 12 months.
- f. **Attendance:** In-town members of the LURB may be removed by the Town Council at any time for failure to attend three (3) consecutive meetings or for failure to attend 75 percent (75%) or more of the meetings within any 12-month period or for any other good cause related to performance of duties. ETJ members who fail to attend three (3) consecutive meetings or who fail to attend 75 percent (75%) or more of the meetings within any 12-month period or for any other good cause related to performance of duties shall be recommended for removal to the Wake County Board of Commissioners.
- g. **Relocation:** If a town member moves outside the town, or if an ETJ member moves outside the extra-territorial planning jurisdiction, that shall constitute a resignation from the board.

2. **Officers**

- a. **Elections and Terms:** At the first regularly scheduled meeting following the annual appointment of members, the LURB shall select from among its members a Chair and Vice-Chair. These officers shall serve for a period of not more than two (2) consecutive 1-year terms in the same capacity.
- b. **Responsibilities and Duties:** The Chair shall preside over the LURB as a non-voting member (except in the case of breaking a tie), decide all points of order or procedure using the latest edition of "*Robert's Rules of Order*", and transmit reports and recommendations of LURB to the Town Council. The Vice-Chair shall assume the duties of the Chair in his/her absence. The Chair and Vice-Chair may take part in all deliberations during the legislative segment.
- c. **Board Clerk Assigned:** The clerk to the LURB shall be a Town staff member assigned by the Administrator.

3. **Meetings**

- a. **Schedule:** The LURB shall establish a regular meeting schedule and shall meet frequently enough, at least monthly if necessary, so as to take action as expeditiously as possible on the items of business.
- b. **Open Meetings:** All LURB meetings shall be open to the public, and whenever feasible, the agenda for each meeting shall be made available in advance of the meeting.
- c. **Rules of Procedure:** All meetings shall be conducted using the latest edition of "*Robert's Rules of Order*". The LURB may adopt rules of procedure governing its quasi-judicial procedures and operations not inconsistent with the provisions of this Ordinance.

- d. **Board of Adjustment Items:** The meetings of the LURB shall include a segment dedicated to the Board of Adjustment, including but not limited to final quasi-judicial decisions on appeals, variances, interpretations and other items as required by this Ordinance. This portion of the meeting shall precede legislative action items on the LURB's agenda. A separate record of minutes and attendance shall be kept of all segments of LURB meetings dedicated to the Board of Adjustment.

4. **Responsibilities and Duties**

- a. **Board of Adjustment:** See Section 14.3
- b. **Planning Board:** Subject to authorization, referral or budget appropriation by the Town Council the LURB shall have the following legislative responsibilities and duties related to planning and zoning:
  - i. To develop plans and prepare studies for the orderly growth and development of the Town of Knightdale and its environs. Such plans shall set forth goals, objectives and policies designed to manage the quantity, type, cost, location, timing and quality of development and redevelopment in the Knightdale community;
  - ii. To seek to coordinate the activities of individuals and public or private agencies and organizations whose plans, activities and programs bear on the general development of the community;
  - iii. To formulate and recommend to the Town Council the adoption or amendment of ordinances that, in the opinion of the LURB will serve to promote the orderly development of the community in accordance with the Comprehensive Plan;
  - iv. To conduct public meetings and hearings, giving reasonable notice to the public thereof;
  - v. To review and make recommendations to the Town Council on proposed amendments to the zoning map, UDO, or Comprehensive Plan.
  - vi. To exercise such other powers and to perform such other duties as are authorized or required elsewhere in this Ordinance, the N.C.G.S., or by the Town Council;
  - vii. To review and make recommendations to the Town Council on proposed applications for Conditional Districts, and Vested Rights.
- c. **Community Appearance Commission:** Subject to authorization, referral or budget appropriation by the Town Council the LURB shall have the following legislative responsibilities and duties related to the appearance and beautification of the Town:
  - i. To initiate, promote and assist in the implementation of programs for general community beautification within the Town's corporate limits and ETJ;
  - ii. To seek to coordinate the activities of individuals and public or private agencies and organizations whose plans, activities and programs bear on the appearance of the community;

- iii. To provide leadership and guidance in matters of community design and appearance to individuals and public or private agencies and organizations;
  - iv. To direct the attention of appropriate Town officials to needed enforcement of any ordinance that may affect the appearance of the community;
  - v. To seek voluntary adherence to the standards and policies of its plans.
  - vi. To formulate and recommend to the Town Council the adoption or amendment of ordinances (*including the UDO and other local ordinances regulating the use of property*) that will, in the opinion of the commission, serve to conserve the Town's natural beauty, visual character and charm by insuring that structures, signs and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain and landscaping, and that proper attention is given to the exterior appearance of structures, signs and other improvements.
- d. **Tree Board:** Subject to authorization, referral or budget appropriation by the Town Council the LURB shall have the following legislative responsibilities and duties related to the protection and planting of trees within the Town:
- i. To develop, implement and update a written plan for the care, preservation, growth, planting, protection and removal of trees within street rights-of-way, public parks and other municipal properties;
  - ii. To support and facilitate the planting, growth and protection of trees within the Town, organizing and enlisting both public and private resources;
  - iii. To conduct periodic surveys of street trees and other trees within the community to determine the composition and condition;
  - iv. To provide, sponsor and facilitate the organization of workshops, the preparation of publications and the dissemination of information to the public, tree companies and public utilities concerning the proper care, pruning, protection, planting and removal of trees, particularly street trees and other trees on municipal property; and
  - v. To provide advisory assistance to private property owners concerning the appropriate care and planting of trees.

5. Quorum and Voting

a. Legislative Items

- i. **Quorum:** A quorum shall be the simple majority of the LURB membership excluding vacant seats. A quorum is necessary to take official action.
- ii. A member who has withdrawn from the meeting without being excused shall be counted as present for the purposes of determining whether a quorum is present.
- iii. All actions of the LURB during the legislative portion shall be taken by simple majority vote of those present and voting, a quorum being present.
- iv. All members of the LURB shall serve as voting members during the legislative portion except the Chair as noted in subsection “2b” above.
- v. Once a member is physically present during the legislative portion of a LURB meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused.
- vi. Since the legislative portion of the LURB has advisory authority, it need not conduct its meetings strictly in accordance with quasi-judicial procedures. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.
- vii. During the legislative portion of the LURB meeting, the entire Board shall formulate recommendations on matters referred to it by the Town Council. Such matters shall include but not be limited to: zoning map amendments, zoning text amendments, and amendments to the Comprehensive Plan.

b. Board of Adjustment Cases

- i. **Quorum:** A quorum for the quasi-judicial segment involving Board of Adjustment cases shall consist of a super-majority (*four-fifths*) of the Board of Adjustment membership (*excluding vacant seats or disqualified members in the absence of qualified alternates*) for Variance cases and equal to a simple majority of the Board of Adjustment membership for all others. A quorum is necessary for the LURB to take action.
- ii. A member who has withdrawn from the meeting without being excused shall be counted as present for purposes of determining whether a quorum is present.
- iii. Concurring vote of a super-majority (*four-fifths*) of the regular voting membership (*excluding vacant seats or disqualified members in the absence of qualified alternates*) shall be necessary to grant any Variance. All other actions during the quasi-judicial segment shall be taken by simple majority vote of the eligible voting members.
- iv. Once a member is physically present during the quasi-judicial segment of a LURB meeting, any subsequent failure to vote shall be

recorded as an affirmative vote unless the member has been excused in accordance with subsection “v” below. If a quasi-judicial voting member is either absent from the LURB meeting or has been excused in accordance with this Ordinance, he or she shall be replaced by an alternate at any time during the quasi-judicial portion.

- v. A member shall be excused from voting on a particular issue by majority vote of the remaining quasi-judicial voting members present under the following circumstances:
  - a) If the member has a direct financial interest in the outcome of the matter at issue; or
  - b) If the matter at issue involves the member's own official conduct; or
  - c) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or
  - d) 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; or
  - e) If a member has had undisclosed ex parte communications; or
  - f) If a member has a fixed opinion prior to hearing that matter that is not susceptible to change.
- vi. A roll call vote shall be taken upon the request of any member.

- 6. **Annual Report:** At least once a year, the Chair of the LURB shall submit to the Town Council an annual report summarizing its activities during the previous year.

**B. Development Review Committee (DRC)**

- 1. **Responsibilities and Duties:** The Development Review Committee shall have the following duties and responsibilities:
  - a. **Preliminary Plat/Site Plan Approval:** Upon reviewing the plans for adherence to the UDO, the DRC may take the following action with regard to preliminary plat subdivisions and site plans:
    - Approve or deny the preliminary plat subdivision or site plan; or
    - Recommend major and/or minor changes to the preliminary plat or site plan to be considered by the developer; or
    - Conditionally approve preliminary plats or site plans subject to final review by the Administrator; or
    - Table the preliminary plat or site plan for further study or additional information; or
    - Forward the preliminary plat or site plan to the Town Council for further consideration.

Any of the preceding actions taken that involves a final decision by the DRC may be appealed to the Town Council (*see Section 15.11*).

- b. **Schedule:** The DRC shall establish a regular meeting schedule and shall meet frequently enough, at least monthly if necessary, so as to take action as expeditiously as possible on the items of business.
  - c. **Planning Process Application Technical Requirements:** The DRC shall establish the technical requirements for all applications including submission schedules, size and number of drawings, type of media, etc.
2. **Membership:** The DRC shall be chaired by the Planning Director and consist of the following additional members:
- Two (2) Planning Department Representatives
  - Two (2) Town Council members as non-voting, ex officio members
  - Town Fire Chief or Designee
  - One (1) Public Works Department Representative
  - One (1) Parks and Recreation Department Representative
  - Town Engineer or Designee
  - Town Manager