

2. ADMINISTRATION

2.1 REVIEW AND DECISION-MAKING BODIES

2.1.1 The following bodies and town staff have powers and responsibilities in administering and reviewing applications for development under this Ordinance:

- Town Board,
- Planning Board,
- Board of Adjustment,
- Historic District Commission,
- Technical Review Committee, and
- Planning Director.

In addition to the decision-making bodies listed in this section, other Town boards and commissions may review and comment on specific application types during the review process as specified in the Town of Hillsborough’s Administrative Manual, referred to from time to time in this Ordinance.

2.1.2 CONFLICTS OF INTEREST

- 2.1.2.1 Members of the decision-making bodies shall not vote on advisory or legislative decisions regarding this ordinance or an amendment thereto (text or map) where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A member shall not vote on any zoning amendment if the landowner of the property subject to the rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- 2.1.2.2 Members of the decision-making bodies shall not participate in or vote on any quasi-judicial matter in a manner that would violate the affected persons’ constitutional rights to an impartial decision maker. Impermissible violations of due process 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.
- 2.1.2.3 For the purposes of this section, a close familial relationship means a spouse (domestic partner), parent, child, sibling, grandparent, or grandchild. The term includes step, half, and in-law relationships.

2.2 BOARD OF COMMISSIONERS/TOWN BOARD

2.2.1 POWERS AND DUTIES

The Board of Commissioners (sometimes referred to in this Ordinance as “Town Board”) has the following responsibilities in relation to this Ordinance:

- 2.2.1.1 Hear and decide applications for amendments to the text, schedules, and map

portions of this Ordinance.

- 2.2.1.2 Establish rules of procedure for the conduct of legislative hearings and other proceedings before the Town Board.
- 2.2.1.3 Make the necessary appointments to the Planning Board, Board of Adjustment, and Historic District Commission.
- 2.2.1.4 Provide by appropriation, funds for the administration of this Ordinance.
- 2.2.1.5 Such other actions as are, or may be, authorized by North Carolina General Statutes Chapter 160D.

2.2.2 MEMBERSHIP, APPOINTMENT, AND TERMS OF OFFICE

Membership, appointment, and terms of office for Town Board members are established in Article 2, Mayor and Board of Commissioners, of the Hillsborough Code of Ordinances (the "Town Code").

2.2.3 QUORUM AND NECESSARY VOTE

Quorum and voting requirements are established in Article 2 of the Town Code.

2.2.4 RULES OF PROCEDURE

Amendments to this Ordinance shall be processed in accord with the provisions of Section 3.6, *Unified Development Ordinance, Future Land Use Plan, and Comprehensive Plan Amendments*, and with the Rules of Procedure of the Town Board and of the Planning Board. The Town Board, in exercising this power, is bound by the State's enabling legislation, the terms of this Ordinance, and applicable court decisions in carrying out its legislative function.

2.3 PLANNING BOARD

The Planning Board is hereby established in accordance with the North Carolina General Statutes.

2.3.1 POWERS AND DUTIES

The Planning Board shall have the following powers and duties:

- 2.3.1.1 Make studies of Hillsborough and surrounding areas.
- 2.3.1.2 Determine objectives to be sought in the development of Hillsborough.
- 2.3.1.3 Propose and recommend plans for achieving these objectives.
- 2.3.1.4 Develop and recommend to the Town Board policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
- 2.3.1.5 Advise the Town Board concerning the use and amendment of means for carrying out plans.
- 2.3.1.6 Exercise such functions in the administration and enforcement of various means for carrying out plans as may be assigned by this or other ordinances of the Town.

- 2.3.1.7** Gather maps and aerial photographs of man-made 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 area, 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 Hillsborough and its various parts as background for its Comprehensive Plan and any ordinances it may prepare.
- 2.3.1.8** 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; traffic, transportation, parking facilities; environmentally critical areas and important natural resources. All Town officials shall, upon request, furnish to the Planning Board such available records or information as it may require in its work.
- 2.3.1.9** Approve and recommend for adoption by the Town Board a Comprehensive Plan for the development of the Town, and amendments hereto.
- 2.3.1.10** Prepare and recommend to the Town Board new ordinances or amendments to existing ordinances, including this Ordinance, which will have the effect of implementing the Comprehensive Plan.
- 2.3.1.11** Make recommendations, upon referral, upon all such matters as the Board of Commissioners may from time to time refer to it for a recommendation.
- 2.3.1.12** Engage in a program of information dissemination to the public and officials.
- 2.3.1.13** Establish committees of Planning Board members to assist in its functions.
- 2.3.1.14** Perform all necessary actions in support of its duties and powers.
- 2.3.1.15** Perform other related duties as may be assigned by this Ordinance or other ordinances.

2.3.2 MEMBERSHIP

The Hillsborough Planning Board shall consist of at least ten (10) members. Members shall serve without compensation, but they may be reimbursed for incidental expenses incurred in connection with official duties.

2.3.3 APPOINTMENT AND REPRESENTATION

Every member of the board shall be a resident of Orange County. Seven (7) members shall be citizens and residents of the Town of Hillsborough and shall be appointed by the Town Board ; three (3) members shall be citizens and residents of the extraterritorial jurisdiction and shall be appointed by the Orange County Board of Commissioners as set forth in North Carolina General Statutes, Section 160D-202.

Within 60 days of the release of detailed population data from each decennial census, the Planning Director shall report to the Board of Commissioners the proportion of residents in city limits and in the extraterritorial area as can be determined using block group data. The Planning

Director shall also recommend any adjustment in membership distribution needed to maintain the proportional representation and a schedule by which to implement any needed adjustments, not to exceed one calendar year from the date of data availability.

2.3.4 OATH OF OFFICE

Members of the Planning Board shall take an oath of office before the town clerk or a notary public prior to beginning their duties. Signed copies of the oath shall be filed by the town clerk.

2.3.5 TERMS OF OFFICE

The tenure of office shall be three (3) years. Appointments to fill vacancies shall be for the unexpired term. A member may be appointed for a second successive term, but after two (2) consecutive full terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of completion of the second full term. Further policies and procedures about volunteer board appointments may be established by the Town Board in the Town Code.

2.3.6 STAFF

The Planning Director shall provide staff support to assist the Planning Board in carrying out its duties.

2.3.7 MEETINGS

2.3.6.1 Meeting Minutes

The Board shall maintain minutes of its meetings as a permanent public record. Such minutes shall record the attendance of its members, its findings, recommendations, and a summary of information, data, and testimony presented to it.

2.3.6.2 Open to the Public

All meetings of the Board shall be open to the public and the Board shall cause notices to be given as required by Article 33C, Chapter 143 of the North Carolina General Statutes, as amended.

2.3.8 QUORUM AND NECESSARY VOTE

2.3.7.1 A quorum for conduct of business of the Board shall be a majority of the appointed members.

2.3.7.2 An affirmative vote of the majority of Board members present and constituting a quorum is required for all decisions of the Planning Board.

2.3.9 RULES OF PROCEDURE

The Board shall adopt Rules of Procedure and regulations for the conduct of its affairs. Rules of Procedure shall be consistent with the procedural requirements of this Ordinance and state law.

2.4 BOARD OF ADJUSTMENT

A Board of Adjustment is hereby established in accordance with the North Carolina General Statutes.

2.4.1 POWERS AND DUTIES

The Board of Adjustment shall have the following powers:

- 2.4.1.1** Hear, review, and decide appeals from and review any order, requirement, decision, or determination made by the Planning Director in the performance of official duties.
- 2.4.1.2** Hear and decide applications for the approval of Special Uses requiring Board of Adjustment approval, in accordance with the rules and conditions set forth in Section 3.8, *Special Use Permits*.
- 2.4.1.3** Hear and decide applications for variances in accordance with Section 3.10, *Variances*. Nothing in this Ordinance shall be construed to authorize the Board of Adjustment to permit a use in a district where that use is neither a permitted use nor Special Use.
- 2.4.1.4** Pass upon, decide, or determine such other matters as may be required by this Ordinance.

2.4.2 MEMBERSHIP

The Hillsborough Board of Adjustment shall consist of five members and two (2) alternate members. Members shall serve without compensation, but they may be reimbursed for incidental expenses incurred in connection with official duties.

2.4.3 APPOINTMENT AND REPRESENTATION

Every member of the board shall be a resident of Orange County. Two (2) members and one alternate shall be citizens and residents of the Town of Hillsborough and shall be appointed by the Town Board; two (2) members and one alternate shall be citizens and residents of the territory surrounding the Town as described in the North Carolina General Statutes, Chapter 160D-202 and 160D-302, and shall be appointed by the Orange County Board of Commissioners. One regular member shall be a member of the Planning Board, elected by the Planning Board during its annual organizational meeting, who shall have full rights, privileges and duties. The members appointed as extraterritorial members shall have equal rights, privileges, and duties as other board members, regardless of whether the matters at issue arise within the town or the extraterritorial area.

Within 60 days of the release of detailed population data from each decennial census, the Planning Director shall report to the Board of Commissioners the proportion of residents in city limits and in the extraterritorial area as can be determined using block group data. The Planning Director shall also recommend any adjustment in membership distribution needed to maintain the proportional representation and a schedule by which to implement any needed adjustments, not to exceed one calendar year from the date of data availability.

2.4.4 OATH OF OFFICE

Members of the Board of Adjustment shall take an oath of office before the town clerk or a notary public prior to beginning their duties. Signed copies of the oath shall be filed by the town clerk.

2.4.5 TERMS OF OFFICE

The tenure of office shall be three (3) years. Appointments to fill vacancies shall be for the unexpired term. A member may be appointed for a second successive term, but after two (2) consecutive full terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of completion of the second full term. Further policies and procedures

about volunteer board appointments may be established by the Town Board in the Town Code.

2.4.6 STAFF

The Planning Director shall provide staff support to assist the Board of Adjustment in carrying out its duties.

2.4.7 MEETINGS

2.4.6.1 Meeting Minutes

The Board shall maintain minutes of its meetings as a permanent public record. Such minutes shall record the attendance of its members, its findings, recommendations, and a summary of information, data, and testimony presented to it.

2.4.6.2 Open to the Public

All meetings of the Board shall be open to the public and the Board shall cause notices to be given as required by Article 33C, Chapter 143 of the North Carolina General Statutes, as amended.

2.4.8 QUORUM AND NECESSARY VOTE

2.4.7.1 A quorum of the Board of Adjustment, necessary to conduct any business of the Board, shall consist of four (4) members.

2.4.7.2 A simple majority vote of those Board members present shall be sufficient to approve a Special Use Permit pursuant to Section 3.8 and to conduct administrative business of the Board.

2.4.7.3 The concurring vote of four (4) of the members of the Board shall be necessary to decide in favor of the applicant or appellant when the board is reviewing a Variance pursuant to Section 3.10 of this Ordinance.

2.4.9 RULES OF PROCEDURE

The Board shall adopt Rules of Procedure and regulations for the conduct of its affairs. Rules of procedure shall be consistent with the procedural requirements of this Ordinance and state law.

2.5 HISTORIC DISTRICT COMMISSION

The Hillsborough Historic District Commission is hereby established in accordance with North Carolina General Statute § 160D-303.

2.5.1 POWERS AND DUTIES

The Historic District Commission shall have the following powers:

2.5.1.1 Pass upon the appropriateness of the alteration, location or relocation, or demolition of any building, structure, site, or appurtenant feature on a property which has been designated as a landmark or is located within an Historic District; and issue a Certificate of Appropriateness if approved. This shall include location of buildings and structures on the site to the extent that location impacts the congruity with the overall character of the landmark or the District.

2.5.1.2 Pass upon the appropriateness of exterior architectural features, including signs and other

exterior features of any new building or structure to be constructed at a property which has been designated as a landmark or is located within an Historic District. This shall include location of new buildings, structures and signs on the site to the extent that location impacts the congruity with the overall character of the district.

- 2.5.1.3** Cooperate with other town boards or commissions or with agencies of the Town or other governmental units; offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest.
- 2.5.1.4** Recommend to the Planning Board districts or areas to be designated by the Ordinance as "Historic Districts." Recommend to the Town Board properties to be designated by ordinance as landmarks.
- 2.5.1.5** Recommend to the Planning Board that designation of any district or area as a Historic District be revoked or removed. Recommend to the Town Board that designation of any property, district or area as a landmark be revoked or removed.
- 2.5.1.6** Give advice to property owners concerning the treatment of the historical and visual characteristics of their properties which has been designated as landmarks or are located within an Historic District, such as color schemes, gardens, and landscaping features and minor decorative elements.
- 2.5.1.7** Propose to the Planning Board changes to this or any related Ordinance and to propose new Ordinances or laws relating to designated landmarks, Historic Districts or relating to the total program for the development of the historical resources of the Town and its environs.
- 2.5.1.8** Publish information about, or otherwise inform the owners of property designated as landmarks or located within an Historic District, of any matters pertinent to its duties, organization, procedures, responsibilities, functions, or requirements.
- 2.5.1.9** Undertake programs of information, research, or analysis relating to any matters under its purview.
- 2.5.1.10** Report violations of this Ordinance, or related ordinances to the local official responsible for enforcement.
- 2.5.1.11** Assist the Town staff in obtaining the services of private consultants to aid in carrying out programs of research or analysis.
- 2.5.1.12** Recommend to the Town Board and the State of North Carolina structures, sites, objects, or districts worthy of national, state, or local recognition.
- 2.5.1.13** Initiate and participate in negotiations with owners and other parties in an effort to find means of preserving structures or buildings scheduled for demolition or sites scheduled for destruction.
- 2.5.1.14** Establish guidelines under which the Planning Director with approval of the Commission Chairperson may approve minor modifications on behalf of the Commission. No application

shall be considered denied without first being considered by the Commission.

- 2.5.1.15** Conduct evidentiary hearings on applications for Certificates of Appropriateness.
- 2.5.1.16** Organize itself and conduct its business by whatever legal means it deems proper.
- 2.5.1.17** Exercise such other powers and perform such other duties as are required elsewhere by this Ordinance, the General Statutes of North Carolina, or by the Town Board.
- 2.5.1.18** Review and offer comments on Special Use Permits for properties located within the Historic Overlay district. The commission may not accept public comment on these reviews. Any comments or recommendations must be reduced to writing and presented both verbally and in writing at the evidentiary hearing on the application by a Commission member.

2.5.2 MEMBERSHIP

The Commission shall consist of seven (7) regular members. A majority of the members shall be qualified by special interest, knowledge, or training in such fields as history, architecture, archaeology, or related fields. All members shall serve without compensation, but they may be reimbursed for incidental expenses incurred in connection with official duties.

2.5.3 APPOINTMENT

Every member shall reside within the zoning jurisdiction of the Town of Hillsborough and shall be appointed by the Town Board.

2.5.4 TERMS OF OFFICE

The tenure of office shall be three (3) years. Appointments to fill vacancies shall be for the unexpired term. A member may be appointed for a second successive term, but after two (2) consecutive full terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of completion of the second full term.

2.5.5 STAFF

The Planning Director shall provide staff support to assist the Historic District Commission in carrying out its duties.

2.5.6 MEETINGS

2.5.6.1 Meeting Minutes

The Commission shall maintain minutes of its meetings as a permanent public record. Such minutes shall record the attendance of its members, its findings, recommendations, and a summary of information, data, and testimony presented to it.

2.5.6.2 Open to the Public

All meetings of the Commission shall be open to the public and the Commission shall cause notices to be given as required by Article 33C, Chapter 143 of the North Carolina General Statutes, as amended.

2.5.7 QUORUM AND NECESSARY VOTE

- 2.5.7.1** A quorum of the Commission necessary to conduct any business shall consist of four (4) members.

- 2.5.7.2** The concurring vote of a majority of the quorum present, but no fewer than three (3), of the members of the Commission shall be necessary in order to decide in favor of the applicant on any matter upon which it is required to pass by this Ordinance.

2.5.8 RULES OF PROCEDURE

The Commission shall adopt Rules of Procedure and regulations for the conduct of its affairs. Rules of procedure shall be consistent with the procedural requirements of this Ordinance and state law.

2.6 TECHNICAL REVIEW COMMITTEE

The Technical Review Committee is hereby established.

2.6.1 POWERS AND DUTIES

The Technical Review Committee is an advisory group of Town staff members and outside agencies (as necessary) who meet to review and comment on development applications, discuss other matters related to the Town's review and management of development, and to perform such other duties as may from time to time be delegated to it by the Town Board. In addition, the Technical Review Committee may also undertake the following duties:

- 2.6.1.1** Conduct pre-application conferences.
- 2.6.1.2** Provide expertise and assistance to the Planning Director in compiling and maintaining an Administrative Manual and in establishing application content requirements and a submission schedule for review of applications and appeals and
- 2.6.1.3** Provide expertise and technical assistance to the Town's other decision-making bodies, upon request.

2.6.2 MEMBERSHIP

The Technical Review Committee shall consist of at least four (4) members – the Planning Director, the Utilities Director, the Stormwater and Environmental Services Manager, and the Public Works Director, or their designees. Representatives from other Town, Orange County and State departments, as well as local service providers (e.g., Duke Energy), may be asked to participate in meetings.

2.6.3 MEETINGS

The Technical Review Committee shall establish a regular meeting schedule meeting frequently enough to act as expeditiously as practicable on matters before it. The Planning Director may adjourn a regular meeting on determining there are no agenda items for consideration and may call emergency or Special meetings as necessary.

Applicants may be invited to attend meetings as necessary to answer questions from, or provide clarifications requested by, Technical Review Committee members.

Written comments of Committee members shall be filed with the Planning Department and delivered to applicants with projects under review.

2.7 TOWN STAFF

2.7.1 PLANNING DIRECTOR

The provisions of this Ordinance shall be administered by the Planning Director, who shall be appointed by the Town Board. Unless specified by the context, the term “Planning Director” also includes members of the Planning Department staff to whom some planning responsibilities may be assigned from time to time. The “Planning Director” is sometimes referred to in this Ordinance as the “Zoning Officer.”

2.7.1.1 Powers and Duties

The Planning Director has the following responsibilities in relation to this Ordinance:

- 2.7.1.1.a** Administer and enforce this Ordinance.
- 2.7.1.1.b** Issue required permits and certificates as authorized by this Ordinance, including attaching conditions as specified by the approval authority or as needed to ensure compliance with provisions of this Ordinance and the Administrative Manual.
- 2.7.1.1.c** Conduct inspections of buildings or premises and perform other procedures necessary to carry out the enforcement of this Ordinance. In connection with the enforcement of this Ordinance, the Planning Director shall make all necessary determinations and interpretations as required by this Ordinance. Persons aggrieved by a decision or a determination made by the Planning Director may appeal that action to the Board of Adjustment.
- 2.7.1.1.d** Issue a Stop Work Order if a project is found to be under construction without a Zoning Compliance Permit, if a Zoning Compliance Permit is revoked or if work being undertaken is contrary to this Ordinance or any permit issued pursuant to this Ordinance.
- 2.7.1.1.e** Revoke a Zoning Compliance Permit if it is found to have been issued in violation of any provisions of this Ordinance, or if the conditions as stated on the permit are not carried out.
- 2.7.1.1.f** Provide administrative, technical, and professional support to the Town Board, Planning Board, Board of Adjustment, Historic District Commission and any advisory committee established hereunder.
- 2.7.1.1.g** Prepare written staff reports and recommendations on all proposed amendments to this Ordinance, applications for approval of Special Uses, applications for certificates of appropriateness, applications for variances, and appeals from orders, decisions, determinations, and requirements made in enforcing this Ordinance.
- 2.7.1.1.h** Act as liaison with other Town departments, representatives of other local governmental units, of the State of North Carolina and of the United States.
- 2.7.1.1.i** Maintain data, maps, and other information necessary to discharge his/her responsibilities.

2.7.1.1.j Provide appropriate services to encourage the participation of citizens of Hillsborough in the discharge of his/her responsibilities.

2.7.1.1.k Perform such other duties as may be directed by the Town Board.

2.7.1.2 CONFLICTS OF INTEREST

No staff member shall make a final decision on an administrative decision required by this ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff members has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other person as may be designated by this ordinance or the town code.

No staff member shall be financially interested in or employed by a business that is financially interested in a development subject to this ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the town to provide staff support shall engage in any work that is inconsistent with their duties or with the interest of the town, as determined by the town.

2.8 COMPREHENSIVE PLAN

2.8.1 INTENT

The Comprehensive Plan and any ordinances or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing coordinated and harmonious development of the Town which will, in accordance with present and future needs, best promote health, safety, and the general welfare, as well as efficiency in the process of development; including, among other things, adequate provisions for transportation and traffic, the promotion of safety from fire and other dangers, adequate provision of light and air, the promotion of healthful and convenient distribution of population, the promotion of public funds, adequate provision of public utilities, services, and other public requirements, and conservation of significant natural and man-made resources within the Town and its jurisdiction.

The Comprehensive Plan shall constitute the Town Board's recommendation for the physical development of that portion of the County under Town jurisdiction. The recommendations included in the plan shall address in whole or part such things as the goals, policies, and guidelines intended to direct the present and future physical, social, and economic development that occurs within the Town's planning jurisdiction, and shall include a unified physical design for the public and private development of land and water. All applications for development approval shall be considered in relation to, and for conformity with, the Comprehensive Plan.

In adopting or amending the Comprehensive Plan, the Board shall ever be mindful of the need to balance the public interest with the needs of private interests, particularly in the conservation of surface and underground water resources, soil resources, and natural growth resources of the Town and the efficient use of the renewable and non-renewable sources of energy.

2.8.2 ELEMENTS OF COMPREHENSIVE PLAN

The Comprehensive Plan may include a land use plan, maps, plats, charts, small area plans, task force reports, or other official statements, reports, or plans that are officially approved by resolution of the Town Board, and are part of the underlying policy of the Town.

2.8.3 PREPARATION OF COMPREHENSIVE PLAN

Upon request by the Town Board, the Planning Board has the authority to initiate and oversee the process for developing and amending the Town’s Comprehensive Plan.

2.8.4 ADOPTION OF COMPREHENSIVE PLAN

The Town Board, upon receipt of a recommended Comprehensive Plan and/or portions thereof from the Planning Board, shall consider such recommendations and may approve, approve with modifications, or deny the recommended Comprehensive Plan or amendments thereto.

Prior to the adoption or amendment of the Comprehensive Plan, the Board of Commissioners shall hold a legislative hearing thereon. Notice of the legislative hearing shall be given by publishing said notice at least twice in a newspaper of general circulation in the Town, stating the time and place of such hearing, and the substance of the proposed plan or amendment. This notice shall appear in said newspaper for two (2) consecutive weeks with the first notice appearing not less than ten (10) days nor more than twenty-five (25) days before the date set for the legislative hearing.

Proposed amendments to the adopted Comprehensive Plan shall follow the process outlined in Section 3.6, *Unified Development Ordinance, Future Land Use Plan, and Comprehensive Plan Amendment*.