

## ARTICLE III

### ADMINISTRATIVE MECHANISMS

#### 3-1 PLANNING BOARD

##### 3-1.1 Authority

There is hereby created a planning agency, pursuant to NCGS 160A-361 and 160-362, to be known as the White Lake Planning Board and referred to herein as the Planning Board.

##### 3-1.2 Appointment and Terms of Planning Board Members

- (A) There shall be a Planning Board consisting of six members. Four members shall reside within the corporate limits of the Town of White Lake and one member may reside within the corporate limits of the Town of White Lake or may reside outside of the corporate limits and own or operate a business within the corporate limits. One member shall reside within the Town's extraterritorial planning area or shall own or operate a business within the Town's extraterritorial planning area. *The Board of Commissioners may appoint up to two alternate members of the Planning Board who reside inside the Town limits and up to two alternate members who reside in the extraterritorial zoning jurisdiction (Amendment 5/12/98).*
- (B) Five in-town members shall be appointed by the Town Board of Commissioners and one extraterritorial member shall be appointed by the Board of County Commissioners for Bladen County. If a larger number of extraterritorial members is needed to comply with the proportional representation requirements of NCGS 160A-362, the Town Board of Commissioners shall submit to the Board of County 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 exterritorial 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 White Lake 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 Board of County Commissioners fails to make appointments within 90 days after receiving a resolution from the Town Board of Commissioners requesting that they be made, the Town Board of Commissioners may make the appointments.
- (C) 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 by the Town Board of Commissioners for the unexpired terms.

- (D) Planning Board members may be removed by the Town Board of Commissioners at any time for failure to attend two 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.
- (E) If member moves outside of the jurisdiction from which he has been appointed, that shall constitute a resignation from the Planning Board, effective upon the date a replacement is appointed.
- (F) All members of the Planning Board shall serve without pay, but may be reimbursed for any expense incurred while representing the Board.

### **3-1.3 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 the review procedures delineated in this Ordinance.
- (B) Since the Planning Board has only advisory authority, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures established for the Board of Adjustment. 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 Planning Board proceedings.
- (D) All Planning 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.

### **3-1.4 Quorum and Voting**

- (A) A quorum for the Planning Board shall consist of four in-town members when hearing matters that affect property within the town limits and five members when hearing matters that affect property located outside of the town limits and within the town's extraterritorial planning area. 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. The extraterritorial member may vote only on matters considered by the Planning Board that affect property located outside of the town limits and within the extraterritorial planning area.
- (C) In voting on recommendations regarding special use permits, vacant positions on the Board, and members who are disqualified from voting due to a conflict of interest, shall not be considered "members of the Board" for calculation of the requisite majority vote. A member of the Board shall not participate in, or vote on, any 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/herself, the remaining members shall by majority vote rule on the objection. (*Amended 01-09-07*)

- (D) No Planning Board member shall 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. (*Amended 01-09-07*)
- (E) A roll call vote shall be taken upon the request of any member.

### **3-1.5 Planning Board Officers**

- (A) At its first regular meeting in July 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. 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 and vice-chairman may take part in all deliberations and may vote on all issues.
- (C) The Town Clerk or her designee shall serve as secretary to the Planning Board.

### **3-1.6 Powers and Duties of Planning Board**

- (A) The Planning Board may:
  - 1) Make studies and recommend to the Board of Commissioners plans, goals and objectives relating to the growth, development and redevelopment of the Town's planning jurisdiction.
  - 2) Develop and recommend to the Board of Commissioners policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner.
  - 3) Make recommendations to the Board of Commissioners concerning proposed special use permits and proposed zoning text and map changes, as provided by Sections 4-7.2.
  - 4) Perform any other duties assigned by the Board of Commissioners.
- (B) The Planning Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Ordinance.

### **3-1.7 Advisory Committees**

- (A) From time to time, the Board of Commissioners may appoint one or more individuals to assist the Planning Board to carry out its planning responsibilities with respect to a particular subject area.

- (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 Board of Commissioners shall be made by the Planning Board.
- (C) Nothing in this section shall prevent the Board of Commissioners from establishing independent advisory groups, committees, or boards to make recommendations on any issue directly to the Board of Commissioners.

## **3-2 BOARD OF ADJUSTMENT**

### **3-2.1 Authority**

There is hereby created a Board of Adjustment pursuant to NCGS 160A-388, to be known as the Town of White Lake Board of Adjustment and referred to herein as the Board of Adjustment.

### **3-2.2 Appointment and Terms of Board of Adjustment**

- (A) There shall be a Board of Adjustment consisting of six members. Four members shall reside within the corporate limits of the Town of White Lake and one member may reside within the corporate limits of the Town of White Lake or may reside outside of the corporate limits and own or operate a business within the corporate limits. One member shall reside within the Town's extraterritorial planning area or shall own or operate a business within the Town's extraterritorial planning area. Five in-town members shall be appointed by the Town Board of Commissioners and one extraterritorial member shall be appointed by the Board of County Commissioners for Bladen County. All members of the Board of Adjustment shall accept an oath of office to be administered by a notary public. *The Board of Commissioners may appoint up to two alternate members of the Board of Adjustment who reside inside the Town limits and up to two alternate members who reside in the extraterritorial zoning jurisdiction (Amendment 5/12/98).*

If a larger number of extraterritorial members is needed to comply with the proportional representation requirements of NCGS 160A-362, the Town Board of Commissioners shall submit to the Board of County 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 White Lake 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 Board of County Commissioners fails to make appointments within 90 days after receiving a resolution from the Town Board of Commissioners requesting that they be made, the Town Board of Commissioners may make the appointments.

- (B) The Board of Adjustment 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. Members whose terms have expired shall continue to serve until their successors have accepted an oath of office.
- (C) Board of Adjustment members may be removed by the Town Board of Commissioners at any time for failure to attend three consecutive meetings or for failure to attend fifty percent or more of the meetings within any twelve month period or for any other good cause related to performance of duties.
- (D) Members shall serve without any pay, but may be reimbursed for any expenses incurred while representing the Board of Adjustment.
- (E) If a member moves outside of the jurisdiction from which he has been appointed, that shall constitute a resignation from the Board, effective upon the date a replacement is appointed.

### **3-2.3 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 procedures delineated in this Ordinance.
- (B) The Board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in this Ordinance and in accordance with its bylaws.
- (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.

### **3-2.4 Quorum**

- (A) A quorum for the Board of Adjustment shall consist of four in-town members when hearing matters that affect property within the town limits and five members when hearing matters that affect property located outside of the town limits and within the town's extraterritorial planning area. 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 3-2.5 shall be counted as present for purposes of determining whether a quorum is present.

### **3-2.5 Voting**

- (A) The concurring vote of four-fifths of the Board membership (excluding vacant seats) shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Inspector or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance or to grant any variance. For in-town matters, a concurring vote of four of the five in-town members shall be required. For out-of-town matters, a concurring vote of five of the six total members shall be required. Extraterritorial members may vote only on matters considered by the Board of

Adjustment that affect property located outside of the town limits and within the extraterritorial jurisdiction. All other actions of the Board shall be taken by majority vote, a quorum being present.

- (B) In voting on an appeal, variance, or interpretation, vacant positions on the Board and members who are disqualified from voting due to a conflict of interest shall not be considered "members of the Board" for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members. *(Amended 01-09-07)*
- (C) 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 excused himself/herself in accordance with subsection (D) or has been allowed to withdraw from the meeting in accordance with subsection (E). *(Amended 01-09-07)*
- (D) A member of the Board shall not participate in, or vote on any matter, in a manner that would violate affected persons' constitutional rights to an impartial decision maker. A member shall not vote on any matter where any of the following situations exist:
  - 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 (familial, business, associational, etc.) to the applicant or other affected person that the member cannot reasonably be expected to exercise sound judgment in the public interest; or
  - 5) If a member has a fixed opinion prior to the hearing on the matter that is not susceptible to change; or
  - 6) If a member has had undisclosed ex parte communications on the matter; or
  - 7) If it is determined that any other particular conflict of interest exists not listed in 1 through 6 above.

If an objection is raised to a member's participation, and that member does not recuse himself/herself, the remaining members shall by majority vote, rule on the objection. *(Amended 01-09-07)*

- (E) 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.

- (F) 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.
- (G) A roll call vote shall be taken for each motion. The Board shall keep minutes of its proceedings showing the vote of each member, the Board's findings of fact, and the Board's decision.
- (H) On all appeals, applications, or other matters brought before the Board of Adjustment, the Board shall inform, in writing, all parties involved in its decision, including the Chairman of the Planning Board, and reasons therefor.

### **3-2.6 Board of Adjustment Officers**

- (A) At its first regular meeting after June of each year, the Board of Adjustment 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. Officer vacancies may be filled for the unexpired terms only by a majority vote of the Board membership (excluding vacant seats).
- (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.
- (D) The Town Clerk or her designee shall serve as secretary to the Board of Adjustment.

### **3-2.7 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 Zoning Inspector, as provided in Section 7-1.
  - 2) Applications for special exceptions concerning nonconforming uses, as provided in Section 6-3.3(c).
  - 3) Applications for general variances, as provided in Section 7-2.
  - 4) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in Section 9-3.2.
  - 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 Ordinance.

### **3-3 ZONING INSPECTOR**

#### **3-3.1 Establishment**

Except as otherwise specifically provided, primary responsibility for administering and enforcing this Ordinance may be assigned to one or more individuals by the Board of Commissioners. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the 'Zoning Inspector.' The term 'inspector' is sometimes used interchangeably with the term 'Zoning Inspector.'

#### **3-3.2 Duties of the Zoning Inspector**

The Zoning Inspector shall:

- (A) Issue permits and certificates pursuant to this Ordinance;
- (B) Review all development plans and permits to assure that the permit requirements of this Ordinance have been satisfied;
- (C) Interpret the applicability of the provisions of this Ordinance in matters where the text does not clearly provide guidance;
- (D) Inspect properties and activities for which permits have been issued to determine whether the use(s) is being conducted in accordance with the provisions of this Ordinance;
- (E) Cause to be investigated violations of this Ordinance;
- (F) Enforce the provisions of this Ordinance;
- (G) Issue notice of corrective action(s) when required;
- (H) Use the remedies provided in this Ordinance to gain compliance;
- (I) Be authorized to gather evidence in support of said activities; and
- (J) Perform other duties as may be assigned by the Board of Commissioners.

### **3-4 BOARD OF COMMISSIONERS**

- (A) The Board of Commissioners, in considering special use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth for the Board of Adjustment except that no vote greater than a majority vote shall be required for the Board of Commissioners to issue a special use permit.
- (B) In voting on the approval or denial of a special use permit, vacant positions on the Board and members who are disqualified from voting due to a conflict of interest shall not be considered "members of the Board" for calculation of the requisite majority. A member of the Board shall not participate in, or vote on any 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/herself, the remaining members shall by majority vote rule on the objection. *(Amended 01-09-07)*

- (C) In considering amendments to this Ordinance or the zoning map, the Board of Commissioners shall follow the regular, voting, and other requirements as set forth in other provisions of general law.
- (D) In considering proposed changes in the text of this Ordinance or in the zoning map, the Board of Commissioners acts in its legislative capacity and must proceed in accordance with the requirements of Article VIII. A Board member shall not vote on 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. *(Amended 01-09-07)*
- (E) The Board of Commissioners, in considering the approval of a site specific development plan (as defined in Section 4-15, Vested Rights), shall follow the procedural requirements set forth in Section 4-7 of this Ordinance for the issuance of a special use permit.

### **3-5 TOWN CLERK**

The Town Clerk shall:

- (A) Establish and publish application procedures for permits, appeals, and actions pursuant to this Ordinance and forms implementing the same;
- (B) Maintain all records pertaining to the provisions of this Ordinance in her office(s) and make said records open for public inspection;
- (C) Receive appeals and forward cases to the appropriate Board; and
- (D) Perform other duties as may be assigned by the Board of Commissioners.

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