

UNIFIED DEVELOPMENT ORDINANCE

ARTICLE II: ADMINISTRATIVE AGENCIES



CATAWBA COUNTY, NORTH CAROLINA



ARTICLE II. ADMINISTRATIVE AGENCIES

Division 1. Establishment of Administrative Officer.

Sec. 44-200. Planning director.

The planning director, or his designee, shall administer this Chapter. Wherever “planning director” is mentioned within this Chapter, his designee is included by definition and shall have the same authority as the planning director.

Sec. 44-201. Planning director duties, powers, and limitations.

- (a) The planning director shall have the power to grant zoning authorization permits and zoning compliance certificates and to make or cause to be made inspections of buildings or premises necessary to carry out the enforcement of this Chapter. In connection with the enforcement of this Chapter, the planning director shall make all necessary determinations and interpretations as required by this Chapter.
- (b) If any proposed excavation, construction, moving, alteration, or use of land as set forth in an application for a zoning authorization permit is in conformity with this Chapter, the planning director, shall issue a zoning authorization permit; however:
 - (1) Issuance of a zoning authorization permit shall in no case be construed as waiving any section of this Chapter.
 - (2) Under no circumstance is the planning director permitted to grant exceptions to the actual meaning of any clause, standard, or regulation contained in this Chapter to any person making application to excavate, construct, move, alter, or use a building, a structure, or land.
 - (3) The planning director shall issue a permit when the standards and/or conditions of this Chapter are complied with by the applicant regardless of whether the use of the permit would violate contractual or other arrangements among private parties such as restrictive covenants.
 - (4) If an application for a permit is denied, the planning director shall state in writing the reasons for the denial.

Sec. 44-202. Appeals of planning director’s actions.

All appeals of the planning director’s actions shall follow procedures in accordance with Article III, Sec. 44-305.

Sec. 44-203 - 208. Reserved.



Division 2. Planning Board

*State law references: Planning agency, G.S. 153A-344.

Sec. 44-209. Established.

There is established in and for the County a planning board that shall be known as the Catawba County Planning Board.

Sec. 44-210. Composition.

The planning board shall be composed of 9 members, and up to 3 alternates, selected to represent various areas of the County. Representatives should be selected to adequately represent the small area planning areas when possible.

Sec. 44-211. Appointment.

The board of commissioners shall appoint the members of the planning board.

Sec. 44-212. Terms.

Terms on the planning board shall be for a 4-year period. A planning board member shall be eligible for reappointment to the planning board. Each member shall serve until his successor is duly appointed.

Sec. 44-213. Filling vacancies.

If a vacancy occurs in the membership of the planning board, other than by expiration of a term, the vacancy shall be filled by appointment for the unexpired term.

Sec. 44-214. Compensation.

The members of the planning board shall receive compensation for their services as may be fixed from time to time by the board of commissioners.

Sec. 44-215. General development plan.

The planning board shall prepare and recommend general plans for the physical development of the County. Typically general plans take on the form of a zoning, subdivision, UDO, comprehensive plan or small area plan. These plans with accompanying maps, charts, and descriptive and explanatory matters show the planning board's recommendations for the development of the territory covered by the plan and may include, among other things, the following:

- (a) The general location, character, and extent of streets or roads, bridges, waterway and waterfront developments, parkways, playgrounds, forests, parks, and other public ways, grounds, places and spaces;



- (b) The general location of other public areas and reservations for the purposes of conservation, food and water supply, sanitary and drainage facilities, or the protection of rural and urban development; and
- (c) Such other features as may be important to the development of the County.
- (d) Make recommendations for modifications to the plan.

Sec. 44-216. Intergovernmental cooperation.

- (a) The planning board shall work jointly with the planning boards of each municipality located in the County in all matters wherein the respective municipality and the County have a joint interest in the physical development of the area.
- (b) The planning board shall encourage the cooperation of the municipality within the County in any matters whatsoever which may concern the integrity of the County plan and to advise the board of commissioners with respect to the formulation of development programs and budgets for capital expenditures.
- (c) The planning board shall advise and make recommendations to the board of commissioners on all matters relating to the physical development of the County.

Sec. 44-217. Recommendations.

- (a) The planning board may make recommendations to the board of commissioners on new, updated, or revised comprehensive studies that are conducted for part or the entire planning jurisdiction of the County. Such studies may include, but are not limited to, studies of the physical, social, and economic conditions of the County that will best promote the health, safety, and general welfare of County citizens.
- (b) The planning board also conducts public hearings where they make recommendations to the board of commissioners on proposed amendments to the County's land use regulations, including the UDO, and amendments to the County's official zoning atlas.

Sec. 44-218 - 223. Reserved.

Division 3. Board of Adjustment

*State law references: County board of adjustment, G.S. 153A-345.

Sec. 44-224. Established.

There is established the Catawba County Board of Adjustment.



Sec. 44-225. Composition.

The board of adjustment shall be composed of 5 members, and up to 3 alternates, selected to represent various areas of the County. Representatives should be selected to adequately represent the small area planning areas when possible.

Sec. 44-226. Appointment.

The board of commissioners shall appoint the members of the board of adjustment.

Sec. 44-227. Terms.

Terms on the board of adjustment shall be for a 3-year period. A board of adjustment member shall be eligible for reappointment to the board of adjustment. Each member shall serve until his successor is duly appointed.

Sec. 44-228. Filling vacancies.

If a vacancy occurs in the membership of the board of adjustment, other than by expiration of a term, the vacancy shall be filled by appointment for the unexpired term.

Sec. 44-229. Compensation.

The members of the board of adjustment shall receive compensation for their services as may be fixed from time to time by the board of commissioners.

Sec. 44-230. Powers.

Pursuant to North Carolina law, the board of adjustment has the power to:

- (a) By a vote of 4/5 of its members having a quorum present constituting 5 members:
 - (1) Hear and decide appeals from and review any order, requirement, decision, or determination made by the planning director in the performance of his duties as the order, requirement, decision, or determination relates to this Chapter.
 - (2) Hear and decide applications for the approval of those special uses requiring board of adjustment approval.
 - (3) Hear and decide applications for variances. Nothing in this Chapter 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 a permissible special use.
 - (4) Hear and decide any other matters as may be required by this Chapter.
 - (5) Make interpretations of the meaning and intent of this Chapter
- (b) By simple majority vote, conduct routine business, such as electing a chair or determining time of next meeting.



Sec. 44-231. Procedures.

- (a) *Procedure for filing applications and appeals; priority for agenda.* The following guidelines shall be followed in the preparation of the agenda for a board of adjustment meeting in respect to the cases that shall be heard:
- (1) A matter for the board of adjustment must be filed and accepted 45 days before the scheduled board of adjustment meeting, counting the day of the board of adjustment meeting as the 45th day.
 - (2) The application, and any required materials, must be complete and any applicable filing fee must be paid at the time the application is submitted or said application shall not be accepted. When a complete application is filed, the date and time of filing shall be written on the face of the application. The date and time of filing shall not be marked on the application unless the application is complete and the fee has been paid.
 - (3) The general policy shall be to schedule cases on a first come, first serve basis, in accordance with the date and time the application was properly filed.
 - (4) The normal agenda for the board of adjustment shall not exceed 5 cases unless the planning director determines that some cases may be expeditiously disposed of.
 - (5) The planning director shall have the discretion not to schedule any matter for the next regularly scheduled meeting of the board of adjustment if the planning director determines that he needs more time to investigate and to prepare a review of that particular matter in order to make an appropriate presentation before the board of adjustment.
 - (6) Matters that cannot be scheduled for the forthcoming meeting of the board of adjustment shall automatically be scheduled on a first come, first serve basis for the next scheduled meeting of the board of adjustment.
 - (7) If the board of adjustment hears any matter, the board may continue that matter for the consideration of additional or rebuttal evidence that could not have reasonably been presented at the initial meeting.
- (b) Hearings.
- (1) *Notice.* Notice of the time and place of each hearing before the board of adjustment shall be given to the following:
 - a. The applicant;
 - b. The owner of the property that is the subject of the application;
 - c. The owners of property adjacent to and directly across the street from and immediately in the rear of the property that is the subject of the application; and
 - d. Anyone directly named in the application.



- (2) No meeting may continue past 11:00 p.m. without a majority vote of the board members to suspend this rule.
- (3) Any party may appear in person, by agent, or by attorney at the hearing. The order of business for each hearing shall be as follows:
 - a. All parties desiring to speak about an issue must sign in with the recording secretary to the board of adjustment before the meeting is called.
 - b. The applicant may present evidence, arguments and call witnesses. Only factual evidence is permitted. Hearsay evidence shall not be considered. Applicants shall be limited to one hour for presentation, including cross-examination of opposing witnesses.
 - c. The opposition may present evidence, arguments and call witnesses. Only factual evidence is permitted. Hearsay evidence shall not be considered. The opposition shall be limited to one hour for presentation, including cross-examination of opposing witnesses.
 - d. If there are facts within the special knowledge of a member of the board of adjustment or acquired by the member's personal inspection of the premises, they may be properly considered. However, they must be revealed at the public hearing and made a part of the record so that the applicant will have an opportunity to meet them by evidence or argument, and the reviewing board may judge their competency and materiality.
 - e. Members of the board of adjustment may ask questions of either the applicant or his representative, any of the witnesses, the opposition, County representatives, or the recording secretary.
 - f. Following any board discussion, the chairperson shall ask for a motion to grant the request. If the motion is seconded, a vote shall be called.
- (c) *Subsequent hearings.* Should a matter fail to receive a favorable vote of approval, any applicant must wait one year before the matter may be submitted again for the board's consideration.
- (d) *Application withdrawal.* Should an application be withdrawn after the first notice of the public hearing, the application shall be considered to be denied, and any applicant must wait one year before the matter may be submitted again for the board's consideration.

Sec. 44-232. Decisions.

- (a) *Time.* Decisions of the board of adjustment on any matter shall generally be made at the conclusion of the hearing, or within 30 days from the conclusion of the hearing.



- (b) *Form and appeal.* If an aggrieved party has made a written request for a decision, NCGS 153A-345 shall apply. If an aggrieved party has not made a written request for a decision as provided for in NCGS 153A-345, the aggrieved party may be informed of the decision by telephone, by regular mail, or in any other way that enables the aggrieved party to be informed of the decision.
- (c) *Minutes.* The final decision of the board of adjustment on each matter shall be shown in the record of the case and recorded in the minutes. Such records shall show the reasons for the determination, with a summary of the evidence introduced and the findings of fact made by the board of adjustment. Where a variance is granted, the record shall state in detail any requirements of NCGS 153A-345. The record shall state in detail what, if any, conditions and safeguards are imposed by the board of adjustment in connection with the granting of a variance or an exception.

Sec. 44-233. Appeals.

- (a) Approval criteria for an appeal of a decision of the planning director.
 - (1) The board may reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination of the planning director from which an appeal is taken and make the correct order, requirement, decision, or determination. For that purpose, the board has the same authority as the planning director from which the appeal is taken.
 - (2) The board may rule in favor of the appellant if it finds the order, requirement, decision, or determination from which an appeal is taken:
 - a. Was the result of an incorrect or unlawful interpretation of this Chapter; or
 - b. Would result in a taking of private property, or otherwise result in a deprivation of constitutional rights.
 - (3) The board's decision shall provide the minimum amount of relief necessary in order to comply with the requirements of Subsection (2) above.
 - (4) The planning director shall not amend the board of adjustment's decision.
- (b) *Appeal of board of adjustment decisions.* Each decision of the board is subject to review by the superior court by proceedings in the nature of certiorari. Any petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the decision of the board is filed in the planning office, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the secretary or chairman of the board at the time of its hearing of the case, whichever is later. The decision of the board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.
- (c) *Recording.* A copy of the board's decision shall be maintained by the planning director.



Sec. 44-234. Annual report.

In January of every year the board of adjustment shall prepare, and submit to the board of commissioners, a report of its activities for the previous calendar year. Such report shall contain a statement of the number of cases heard and a summary of the actions taken, along with any other matters which the board of adjustment determines appropriate for inclusion in the report.

Sec. 44-235 - 240. Reserved.

Division 4. Subdivision Review Board.

*State law references: Subdivision Review Board, G.S. 153A-321 and 153A-332.

Sec. 44-241. Established.

There is established the Catawba County Subdivision Review Board.

Sec. 44-242. Composition.

The subdivision review board shall consist of appointed representatives from various County departments, including planning, utilities and engineering, geographic information system, fire marshal's office, environmental health along with a citizen representative, a homebuilder's association representative and a representative from the school system where a proposed development is located.

Sec. 44-243. Appointment.

The subdivision review board shall consist of individuals as appointed by the board of commissioners.

Sec. 44-244. Terms.

The term for the citizen representative and the homebuilder's association representative shall be for a 3-year period. All other terms shall be as long as the member's employment with the County or school system continues.

Sec. 44-245. Filling vacancies.

If a vacancy occurs in the membership of the subdivision review board, other than by expiration of a term, the vacancy shall be filled by appointment for the unexpired term.

Sec. 44-246. Compensation.

Members of the subdivision review board, who are not County employees, shall receive compensation for their services as may be fixed from time to time by the board of commissioners.



Sec. 44-247. Powers.

The subdivision review board shall have the authority to:

- (a) Review a sketch plat and authorize the submittal of the preliminary plat for review.
- (b) Review and approve, approve with modifications, or disapprove applications for approval of preliminary major plats in accordance with this Chapter.
- (c) Review extensions for preliminary plat approval.
- (d) Present proposed subdivision regulation text amendments to the planning board.
- (e) Conduct public hearings for any appeals made pursuant to the Catawba County Code Chapter 16, Article V related to soil erosion and sedimentation control, and approve, overturn, or modify the County engineer's decision on an applicant's erosion control plan.

Sec. 44-248. Appeals process for subdivision review board decisions.

Any decision of the subdivision review board made in regard to this Chapter may be appealed by the applicant, in writing, to the board of adjustment within 30 days following the date of the decision. The written appeal must be filed with the recording secretary of the board of adjustment. If a written appeal is not made within the 30-day period, the matter shall be deemed closed, and the decision of the subdivision review board shall be final.

Sec. 44-249 - 260. Reserved.

Division 5. Historic District Commission

Sec. 44-261 - 299. Reserved.

(Reserved until such time the County designates historic districts and appoints a historic district commission.).