

Section 3. Boards, Commissions and Administrative Agencies

3.1 Governing Bodies

3.1.1 Defined

The Governing Bodies identified in the text of this ordinance as having authority to enforce certain provisions of this ordinance are:

- A. The Durham Board of County Commissioners for property located within Durham County but located outside of any corporate limits.
- B. The Durham City Council for property located within the corporate limits of the City of Durham.

3.1.2 Powers and Duties

The Governing Bodies shall implement, amend, and enforce this ordinance as specified in the provisions of this ordinance. The Governing Bodies shall also appoint members to the Boards and Commissions listed in this Section of the ordinance. The Governing Bodies may also hear appeals or requests for action concerning the text of this ordinance. Actions by the Governing Bodies shall conform to the requirements of this ordinance and the North Carolina General Statutes (NCGS).

3.1.3 The Joint City-County Planning Committee

Selected members of both Governing Bodies shall serve on the Joint City-County Planning Committee (JCCPC). Duties of the JCCPC shall be in accordance with the Interlocal Cooperation Agreement on City-County Planning adopted by the City of Durham and Durham County, as may be amended from time to time.

3.2 Planning Commission

3.2.1 Creation

The Durham Planning Commission was created by the Durham Board of County Commissioners and the Durham City Council on July 1, 1988 in accordance with the Interlocal Cooperation Agreement on City-County Planning. The Commission is composed of a Planning Committee and a Zoning Committee.

3.2.2 Membership

The Durham Planning Commission shall consist of fourteen members. Seven members shall be appointed by the City Council. Six of the seven City appointees shall represent specific districts within the corporate limits of the City. Boundaries of the districts shall be defined on an officially adopted map. Seven of the members of the Commission shall be appointed by the Durham Board of County Commissioners. Four of these seven county appointees shall represent districts defined on an officially adopted map, and three shall reside within the Durham corporate limits. All members shall have equal rights regardless of whether the matters at issue are located inside or outside of the corporate limits. Members shall be appointed for three year terms. Members may continue to serve until their successors have been appointed. Vacancies occurring for reasons other than the expiration of terms shall be filled by the appointing authority as they occur for the period of the unexpired term.

3.2.3 Organization and Meetings

The members of the Durham Planning Commission shall elect a Chairperson and Vice Chairperson and shall create and fill other offices as the members may find necessary. The Commission shall adopt rules of procedure. The Commission shall hold at least four meetings per year at such times as the Commission shall determine. The Chairperson, in consultation with the Vice Chairperson, shall appoint seven members to serve on the Zoning Committee and seven members to serve on the Planning Committee. Members shall not serve on both committees simultaneously. Each committee shall establish a regular meeting schedule. All meetings shall be open to the public and shall conform to the North Carolina Open Meetings Law, NCGS Chapter 143, Article 33C.

3.2.4 Compensation of Members

The members of the Durham Planning Commission may be compensated for their services in such amounts as from time to time shall be determined by the Governing Bodies.

3.2.5 Powers and Duties

- A. The duties of the Planning Commission shall be to:
 1. Determine land use objectives and make land use studies and recommendations.

2. Review and recommend plans, policies, ordinances, ordinance amendments, and administrative procedures.
 3. Review and recommend policies for encouraging public participation in all planning activities.
 4. Perform related duties as directed by the Governing Bodies.
- B. The duties of the Zoning Committee of the Planning Commission shall be to hold public hearings and make recommendations on rezoning petitions and amendments to development ordinances.
- C. The duties of the Planning Committee of the Planning Commission shall be to review and make recommendations on planning reports, small area plans, comprehensive plans, greenway and open space plans, housing programs and plans, revitalization plans, transportation plans, environmental reports, work programs, and capital improvement programs.

3.3 Board of Adjustment

3.3.1 Creation

The Board of Adjustment is established in accordance with North Carolina General Statutes (NCGS 160-388 And NCGS 153A-345).

3.3.2 Membership

The Board shall consist of seven members and three alternate members. The presence of six members shall be necessary for a quorum.

Members shall be appointed for three year terms. Members may continue to serve until their successors are appointed. Vacancies occurring for reasons other than the expiration of terms shall be filled for the period of the unexpired term. An alternate serving in place of a regular member shall have and may exercise all powers and duties of a regular member. Members shall have equal rights regardless of whether the matters at issue are located inside or outside the Durham Corporate limits.

Four members and one alternate shall be appointed by the City Council. Three members and two alternates shall be appointed by the Board of County Commissioners. In making the appointments, the appointing authority shall make a good faith effort to assure urban and rural representation on the Board. Alternates shall be given first consideration for nomination to regular membership.

3.3.3 Organization and Meetings

The Board shall elect a Chairperson and shall create and fill other offices as it may find necessary. The Chairperson or the Chairperson's designee shall administer oaths to witnesses coming before the Board.

The Board shall adopt rules of procedure. Meetings shall be held at such times and places as the Board shall determine. All meetings shall be open to the public and shall conform to the North Carolina Open Meetings Law, [NCGS Chapter 143, Article 33C](#). The Board shall keep minutes of the meetings which record the vote of each member and all abstentions from voting. Meetings shall be open to the public.

3.3.4 Appeals

Every decision of the Board shall be 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 received by the aggrieved party. Any party desiring a copy of the decision of the Board of Adjustment shall file a written request at the time of the hearing.

3.3.5 Compensation

The members of the Board may be compensated for their services in such amounts as from time to time shall be determined by the Governing Bodies.

3.3.6 Powers and Duties

The duties of the Board shall be to:

- A. Hear applications for use permits as required by the zoning ordinance for properties within Durham City and County in accordance with the requirements of Section 13.
- B. Hear applications for variances as permitted by Section 16.
- C. Decide appeals of zoning district boundaries, lot-lines and similar questions.

- D. Decide appeals of decisions by the administrative officials interpreting the zoning ordinance. Reversal of administrative decisions shall require a 3/5 majority vote.
- E. Exercise additional powers as may be described elsewhere in this ordinance and permitted by General Statutes.
- F. Perform related duties as directed by the Governing Bodies.

3.4 Historic Preservation Commission

3.4.1 Establishment of the Durham Historic Preservation Commission

There is hereby established, pursuant to NCGS Chapter 16A, Article 19, Part 3C, a joint commission to be known as the Durham Historic Preservation Commission. The Commission is designated as the historic preservation advisory and quasi-judicial body for the County and City, and shall have the powers and duties described in this Section.

3.4.2 Membership

- A. The Commission shall consist of nine members. All members of the Commission shall be residents of Durham County. A majority of the members of the Commission shall have demonstrated special interest, experience or education in history or architecture. The Commission shall always include at least one of each of the following five designations:

- Registered Architect;
- Registered Landscape Architect;
- Social or Cultural Historian;
- Representative of a Lending Institution or an Attorney;
- Real Estate Agent, Developer or Builder.

The Commission shall also include four at-large members. All members shall have equal rights regardless of whether the matters at issue are located inside or outside of the Durham City limits.

- B. The regular term of office for Commission members shall be three years. Initial appointments shall be considered regular terms. A member may be reappointed for a second term. After two consecutive terms, a member shall be ineligible for reappointment until one calendar year has elapsed from the date of termination of his or her second term. A term shall continue until a successor is appointed by the appropriate Governing Body. Vacancies occurring for reasons other than the expiration of terms shall be filled by the appointing authority for the period of the unexpired term.
- C. Two of the at-large members shall be appointed by the Board of County Commissioners and two of the at-large members shall be appointed by the City Council. The five designated members shall be appointed as follows: The Board of County Commissioners shall appoint a landscape architect, a social or cultural historian and a representative of a lending institution or an attorney. Initially, the City Council shall appoint an architect and a real estate agent, builder, or developer. The length of initial appointments shall be as follows:

County At-Large Appointment #1	One year term
County At-Large Appointment #2	One year term
City At-Large Appointment #1	One year term
City At-Large Appointment #2	One year term
Landscape Architect	Three year term
Social or Cultural Historian	Two year term
Representative of lending Institution or Attorney	One year term
Architect	Two year term
Real Estate Agent, Builder or Developer	Three year term

In making appointments to the Commission, the Board and the Council shall give special preference to current members, to provide continuity in historic preservation planning. The Board of County Commissioners and the City Council shall also make a reasonable effort to balance representation between urban and rural interests. The Board of County Commissioners and the City Council shall consider the recommendations for appointments from the Joint City-County Planning Committee;

however, neither elected body is bound to follow any recommendations for appointment which that Committee may make.

3.4.3 Organization and Meetings

- A. The Commission shall elect its own officers. The Commission officers shall consist of a Chairperson and Vice Chairperson. The Commission may establish committees and subcommittees at its discretion.
- B. The Commission shall adopt rules of procedure for the conduct of its business.
- C. The Commission shall establish a regular meeting time and shall meet at least quarterly and more often as it shall deem necessary. All meetings shall be open to the public and shall conform to the North Carolina Open Meetings Law, NCGS Chapter 143, Article 33C. The commission shall keep permanent minutes of its meetings. The minutes shall include the attendance of its members and its resolutions, findings, recommendations and other actions.
- D. Any member of the Commission who misses three consecutive regular meetings or one-half of the regular meetings in a calendar year without an excuse approved by the Commission shall be considered to have resigned from membership on the Commission. In this event, the Commission shall notify the Governing Body that appointed the member, so that the Governing Body can appoint a replacement member.

3.4.4 Annual Report

The Commission shall prepare an annual report and submit it to the Board of County Commissioners and the City Council. The annual report shall include a comprehensive review of the Commission's activities, problems, and actions of the Commission and any budget requests or other recommendations.

3.4.5 Powers and Duties

The Commission is authorized and empowered to undertake such actions reasonably necessary to discharge and conduct its duties and responsibilities, including but not limited to the following:

- A. General Responsibilities of the Commission: The Commission shall act to promote, enhance and preserve the character and heritage of the Durham community.
- B. Specific Authority and Powers are:
 - 1. To undertake inventories in Durham County of properties of historical, architectural or archaeological significance.
 - 2. To recommend to the Board of County Commissioners and/or the City Council areas to be designated by ordinance as Historic Districts.
 - 3. To recommend to the Board of County Commissioners and/or the City Council that designation of any Historic District be revoked or removed.
 - 4. To recommend to the Board of County Commissioners and/or the City Council buildings, structures, sites, areas or objects within their relative areas of zoning jurisdiction to be designated by ordinance as Historic Landmarks.
 - 5. To recommend to the Board of County Commissioners and/or the City Council that the designation of any building, structure, site, area, or object as an Historic Landmark be removed.
 - 6. To sponsor or conduct educational programs regarding Historic Districts or Historic Landmarks.
 - 7. To give advice to property owners concerning the treatment of the historical and visual characteristics of his or her property located within any Historic District or designated as an Historic Landmark, such as color schemes, gardens and landscape features, and minor decorative elements.
 - 8. To cooperate with the State, Federal and local governments in historic preservation matters.
 - 9. To consider and grant or deny applications for Certificates of Appropriateness or Master Certificates of Appropriateness in Historic Districts or Historic Landmarks in accordance with City and/or County ordinances.
 - 10. To enter, solely in the performance of its official duties and only at reasonable times and only with the consent of the property owner, upon private land for the

examination or survey of the property. However, no member, employee or agent of the Commission may enter any private building or structure without the express consent of the occupants or owner.

11. To recommend to the Board of County Commissioners and/or to the City Council other means of preservation and intervention at such times as vital historic resources appear, in the view of the Commission, to be threatened by neglect, use, demolition, or alteration.
12. To propose to the Board of County Commissioners and/or the City Council changes to the City-County Interlocal Agreement which establishes the Commission, or any other related County and City ordinances, and to propose new ordinances relating to Historic Districts, Historic Landmarks or the total program for the development and preservation of historic resources of Durham and its environs.

3.5 Development Review Board

3.5.1 Creation

The Development Review Board (DRB) is the technical planning agency for the City of Durham and Durham County and is responsible for the application of this ordinance where specified and for the approval or recommendation of land use and development proposals in accordance with the provisions of this ordinance.

3.5.2 Membership

The DRB shall consist of:

- A. **General members who shall be the City-County Planning Director, the Sedimentation and Erosion Control Director, the City Transportation Director and the Durham Planning Commission Chairperson.** General members shall be eligible to vote on all matters at issue.
- B. City members who shall be the Engineer representing the City and the Inspection Services Director. City members shall be eligible to vote on matters located within the City or the Urban Growth Area.
- C. County members shall be the Engineer representing the County, the Environmental Health Director, and the Inspections Director. County members shall be eligible to vote on matters between Durham City Limits and the Urban Growth Area and matters beyond the Urban Growth Area.
- D. A representative of the NC Department of Transportation District Engineer's staff may also serve but may vote only on matters requiring NC Department of Transportation approval.
- E. A roster of DRB members will be maintained in the Planning Department and available for public review. An alternate may serve in a member's absence and have the same powers and duties as the regular member.

3.5.3 Organization and Meetings

The DRB shall elect officers. A City-County Planning staff member shall serve as clerk to the DRB and shall have the authority to stamp and sign approved plans. The clerk shall maintain accurate records of the proceedings. The Board shall adopt rules of procedure within the provisions of the NCGS. Meetings shall be held at least twice monthly and more frequently if felt necessary by the Board.

3.5.4 Powers and Duties

The DRB shall have the following powers and duties:

- A. Provide review of land use and development proposals (site plans etc.) with approval of certain plans and recommendations to Governing Bodies on other plans as specified in Section 17.
- B. Monitor existing ordinances, adopted plans and development standards and recommend changes in order to improve planning and development within the jurisdiction.
- C. Review revisions to development proposals for approval or recommendation to Governing Bodies.
- D. Recommend installation of street and utility improvements related to development proposals.
- E. Perform other duties as directed by the Governing Bodies.

3.6 Staff Agencies

3.6.1 Durham City-County Planning Department

- A. The Durham City-County Planning Department serves as the planning agency and the community development agency for the City of Durham and Durham County. The department administers the zoning and subdivision ordinances for the City and County.
- B. In accordance with NCGS 153A-321 and NCGS 160A-361, the City-County Planning Department is designated to perform the following duties:
 - 1. Make studies of the area within its jurisdiction and surrounding areas;
 - 2. Determine objectives to be sought in the development of the study area;
 - 3. Prepare plans for achieving these objectives;
 - 4. Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
 - 5. Advise the Governing Bodies concerning the use and amendment of means for carrying out plans or amending plans;
 - 6. Exercise any functions in the administration and enforcement of various means for carrying out plans that the Governing Bodies may direct;
 - 7. Perform any other related duties that the Governing Bodies may direct;
 - 8. Accept, receive and disburse funds, grants, and services made available by the Federal government or the State government or private and civic funds to be used in the furtherance of departmental functions; and
 - 9. Administer zoning and subdivision regulations and other related land use controls.

3.6.2 Inspections

The Inspections Department shall enforce provisions of this ordinance which pertain to new construction and the issuance of building permits and Certificates of Compliance. The Inspection Services Director is the head of the department. Additional staff shall be included as determined by administrative officials.

The Director or designees of the Director shall serve on the Development Review Board, issue building permits and issue Certificates of Compliance and maintain records of issued permits. In performing these duties, designated staff shall monitor compliance with all provisions of this ordinance as well as all other development regulations. Any violations shall be acted upon in conformance with established procedures.

3.6.3 Zoning Enforcement

The Director of the City-County Planning Department may designate certain zoning enforcement officers. These officers shall be responsible for enforcing all provisions of this ordinance as they pertain to existing development and those violations which occur after issuance of a Certificate of Occupancy. Any violations shall be acted upon in conformance with procedures found in Section 20.