
ARTICLE 8 ADMINISTRATIVE AGENCIES

8.1 PLANNING COMMISSION

8.1.1 MEMBERSHIP

A Planning Commission for the City of Goldsboro is hereby created. The Goldsboro Planning Commission shall consist of seven members. Per NC G.S. §160D-307, the number of Planning Commission members representing members within City limits members and extraterritorial members (ETJ) area members shall be proportionally distributed based on the decennial Census, with a minimum of at least one ETJ member. Existing county representation on the Planning Commission, in excess of two members, shall be allowed to conclude their terms but not reappointed unless they are reappointed by the Wayne County Board of Commissioners to serve in one of the two membership slots allowed by this ordinance.

8.1.2 QUORUM

A quorum shall consist of a majority (51%) of Commission members, excluding vacant seats. All actions of the Commission shall be taken by majority vote, a quorum being present.

8.1.3 OATH OF OFFICE

Pursuant to NC G.S §160D-309, all Planning Commission members shall qualify by taking an oath of office before entering their duties.

8.1.4 TERM OF OFFICE

Each of the members appointed by the City Council shall serve five-year terms with eligibility for reappointment to a second full term. Extraterritorial members shall be appointed for such period as the County Commissioners deem proper. If the Wayne County Commissioners fail to make this appointment within ninety days after receiving a resolution notifying them of a vacancy from the City Council, the City Council may make the appointments.

The extraterritorial members shall have the same rights, privileges and duties as City members of the Commission. Extraterritorial members are required to vote on each question, regardless of whether the matter at issue arises from within the City or within the extraterritorial planning area.

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Vacancies occurring in the membership of the Planning Commission other than through the expiration of terms shall be filled for the unexpired term by the body that originally made the appointment.

Planning Commission members may be removed by the City Council at any time for failure to attend three successive meetings or for failure to attend at least seventy-five percent of meetings within any twelve-month period or for any other good cause related to the performance of duties.

If an in-City member moves outside of the City limits or if an extraterritorial area member moves outside of that jurisdiction, that shall constitute a resignation from the Planning Commission, effective upon the date a replacement is appointed.

8.1.5 ELECTION OF OFFICERS

The Planning Commission shall elect a chairperson from among the City members of the Commission and such other officers as it may deem proper. The term of the chairperson and other officers shall be 1 year, with eligibility for reelection.

8.1.6 ADOPTION OF RULES AND PROCEDURES

The Planning Commission shall adopt rules and procedures, consistent with NC G.S. §160D-308 to conduct its business. Any rule or procedure adopted by the Commission shall be consistent with state law and this Ordinance.

8.1.7 MEETINGS

The Planning Commission shall establish a regular meeting schedule. All Commission meetings shall be open to the public and whenever feasible the agenda of the meeting shall be made available in advance of the meeting.

Since the Commission has an advisory authority, it need not conduct its meetings in accordance with the quasi-judicial procedures set forth in Section 2.4. However, it shall conduct its meetings to obtain necessary information and to promote the free exchange of ideas.

8.1.8 RECORDS

The Planning Commission shall keep a public record of its resolutions, transactions, findings and determinations.

8.1.9 STATUTORY POWERS

The Planning Commission may exercise any and all powers prescribed by state law and shall perform duties directed by the City Council that are consistent with said law.

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8.1.10 CONFLICTS OF INTEREST

Members of the Planning Commission shall not vote on any advisory or legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial financial impact on the member. An appointed member shall not vote on any zoning amendment if the landowner of the property subject to a 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.

8.1.11 FUNCTIONS AND DUTIES OF THE PLANNING COMMISSION

As the body charged with Comprehensive Planning, the Planning Commission may:

1. Prepare, review, maintain, monitor, and periodically update and recommend to the City Council a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis;
2. Facilitate and coordinate citizen engagement and participations in the planning process;
3. Develop and recommend policies, ordinances, development regulations, administrative procedures to carry out the plans;

As an advisory body to the City Council, the Planning Commission shall review and make recommendations concerning:

1. Proposed official zoning map (conventional and conditional rezonings) and Unified Development Ordinance changes as required by G.S. § 160D-604;
2. The location, character and extent of public improvements and the acquisition of land;
3. The landscape design of parks, streets, recreation areas, public buildings and other local developments;
4. Street names and street name changes;
5. New development proposals; and
6. Other matters as desired by the Administrator or as directed by the City Council.

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8.2 BOARD OF ADJUSTMENT

8.2.1 MEMBERSHIP

A Board of Adjustment for the City of Goldsboro is hereby created. The Goldsboro Board of Adjustment shall consist of seven regular members and two alternate members. Per NC G.S. §160D-307, the number of Board of Adjustment members representing members within City limits members and extraterritorial members (ETJ) area members shall be proportionally distributed based on the decennial Census, with a minimum of at least one ETJ member. The Planning Commission shall serve as the Board of Adjustment. The Planning Commission shall follow the rules of procedure established by the Board of Adjustment when operating in this capacity.

8.2.2 QUORUM

A quorum shall consist of a majority (51%) of the Board members, excluding vacant seats.

8.2.3 OATH OF OFFICE

Pursuant to NC G.S §160D-309, all Board of Adjustment members shall qualify by taking an oath of office before entering their duties.

8.2.4 TERM OF OFFICE

Each of the Board members shall serve three-year terms with eligibility for reappointment to a second full term. If the County Commissioners fail to make this appointment within ninety days after receiving a resolution notifying them of a vacancy from the City Council, the City Council may make the appointments.

The extraterritorial members shall have the same rights, privileges and duties as City members of the Board. Extraterritorial members are required to vote on each question, regardless of whether the matter at issue arises from within the City or within the extraterritorial planning area.

Vacancies occurring in the membership of the Board other than through the expiration of terms shall be filled for the unexpired term by the body that originally made the appointment.

Board members may be removed by the City Council at any time for failure to attend three successive meetings or for failure to attend at least seventy-five percent of meetings within any twelve-month period or for any other good cause related to the performance of duties.

If an in-City member moves outside of the City limits or if an extraterritorial area member moves outside of that jurisdiction, that shall constitute a resignation from the Board, effective upon the date a replacement is appointed.

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8.2.5 ELECTION OF OFFICERS

The Board of Adjustment shall elect a chairperson from among the City members of the Board and such other officers, as it may deem proper. The term of the chairperson shall be one (1) year, with eligibility for reelection.

8.2.6 ADOPTION OF RULES AND PROCEDURES

The Board of Adjustment shall adopt rules and procedures it finds necessary to conduct its business. Any rule or procedure adopted by the Board shall be consistent with state law and this Ordinance.

8.2.7 MEETINGS

The Board of Adjustment shall establish a regular meeting schedule. All meetings shall be conducted in accordance with the quasi-judicial procedures set forth in Section 3.2. 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.

8.2.8 VOTING

The concurring vote of four-fifths (4/5) of the regular Board membership shall be necessary to grant a variance. A simple majority vote of the regular Board membership shall be required to reverse any order, requirement, decision or determination of the Administrator [Administrative Appeal], to find in favor of the applicant on the issuance of special use permits, to interpret imprecise Ordinance text or zoning district boundaries..

However, the four-fifths (4/5) majority vote means four-fifths of the entire Board, not just four-fifths of those present. For example, in the case of Goldsboro's seven member Board, if one member is absent and there are no alternate members to take the place of the absent member, a unanimous six votes would be required to obtain the necessary four-fifths majority. (Six being the first whole number to exceed four-fifths (0.80) of the entire Board). If alternate members are present, they may vote in place of any absent member.

All other actions of the Board shall be taken by majority vote, a quorum being present.

8.2.9 RECORDS

The Board of Adjustment shall keep a public record of its resolutions, transactions, findings and determinations. Final disposition of all cases considered by the Board shall be by written order with the findings of fact stated and the reasons therefore, all of which shall be a matter of public record.

8.1.10 CONFLICTS OF INTEREST

Members of Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member

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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.

8.2.11 FUNCTIONS AND DUTIES OF THE BOARD OF ADJUSTMENT

The Board of Adjustment shall have the following powers and duties:

1. Appeal of administrative decisions. – To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator, any Enforcement Officer or Watershed Administrator in the interpretation of the requirements of this Ordinance.
2. Special Use Permits Tier 1 – To hear and decide only such special uses as the Board is authorized to pass on by the terms of this Ordinance.
3. Variances – To grant variances in accordance with state law and where assigned by this Ordinance.
4. Interpretation - To interpret the location of lines on the official Zoning Map or Zoning Ordinance text requirements where the map or text appears to be unclear.
5. Conditions of approval – In granting any special use permit or variance the Board may prescribe additional requirements and safeguards to insure the purpose of this Ordinance.

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8.3 CITY COUNCIL

8.3.1 PROCEDURES

The City Council, shall consider special use Tier 2 permit applications, acting in a quasi-judicial capacity in accordance with Section 2.4 of this Ordinance.. In considering proposed changes in the text of this Ordinance or in the zoning map, the Council acts in a legislative capacity and must proceed in accordance with the requirements of Section 2.3.

Unless otherwise specified, in acting upon special use Tier 2 permit applications or in considering amendments to this Ordinance or the Zoning Map, the Council shall follow the regular, voting and other requirements as set forth in other provisions of the City Code, the City Charter or general law.

8.1.10 CONFLICTS OF INTEREST

Members of the City Council shall not participate in or vote on any legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial financial impact on the member. A governing member shall not vote on any zoning amendment if the landowner of the property subject to a 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.

Members of the City Council shall not participate in or vote on any quasi-judicial matter in a manner that would violate 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.

8.3.2 FUNCTIONS AND DUTIES OF THE CITY COUNCIL

The City Council shall have the following powers and duties:

1. Development approval - To render final decisions pertaining to applications for development approval where such authority is assigned pursuant to this Ordinance;
2. Rezoning approval – To render final decisions on rezoning (conventional and conditional) applications;
3. Conditions of approval – In granting any special use Tier 2 permit the Council may prescribe additional requirements and safeguards to ensure the purpose of this Ordinance;

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4. Comprehensive Plan - To adopt and amend a Comprehensive Plan or any element thereof;
5. Amendments – To initiate amendments to the text and map of this Ordinance and the Comprehensive Plan;
6. Planning Commission review - To review recommendations of the Planning Commission on issues and actions over which said recommendations are required; and
7. Other - To take such other action not otherwise delegated, as the City Council may deem necessary to implement the provisions of this Ordinance and the Comprehensive Plan.

8.3.3 CITY COUNCIL STATEMENT

1. Plan Consistency

When adopting or rejecting any zoning text or map amendment, the City Council shall approve a brief statement describing whether the action is consistent or inconsistent with the Comprehensive Plan.

2. Statement of Reasonableness

When adopting or rejecting any petition for a zoning text or map amendment a brief statement briefly explaining the reasonableness of the proposed rezoning shall be approved by the City Council. The statement of reasonableness may consider, among other factors:

- a. the size, physical conditions, and other attributes of any area proposed to be rezoned,
- b. the benefits and detriments to the actual and permissible development and the development permissible under the proposed amendment;
- c. the relationship between the current actual and permissible development and the development permissible under the proposed amendment; and
- d. why the action is in the public interest; and (v) any changed conditions warranting the amendment.

If a zoning map amendment qualifies as a “large-scale rezoning” under NC G.S. §160D-602(b), the City Council statement on reasonableness may address the overall zoning.

8.4 ADMINISTRATIVE STAFF

8.4.1 CONFLICTS OF INTEREST

No staff member shall make a final decision on an administrative decision 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 member has a close familial, business, or other associational relationship.

8.4.1 PLANNING DIRECTOR

The Planning Director is the administrative head of the Planning Department. As provided in Sections 2.2, the Planning Director or his designee is authorized to approve major and minor final subdivision plats, sign permits, zoning permits and administrative amendments, traffic analyses, and site plans.

8.4.2 ADMINISTRATION

Except as otherwise specifically provided, the City Manager or Planning Director (Administrator) may assign administering and enforcing this Ordinance to one or more individuals. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the "Land Use Administrator," "Zoning Administrator," "Zoning Enforcement Officer," or "Administrator." The term "staff" or "planning staff" is sometimes used interchangeably with the term "Administrator."

The Watershed Administrator means the "Administrator" or the person designated to review and approve watershed protection permits, interpret the Watershed map, and monitor any land use activities within the watershed areas that may pose a threat to water quality.

8.4.2.1 FUNCTIONS AND DUTIES OF THE PLANNING DEPARTMENT

The Planning Department shall have the following functions and duties:

1. Staff reports – To prepare studies, reports and recommendations concerning specific development proposals where such reports are required or requested by the City Council, Board of Adjustment and Planning Commission;
2. Public information and technical assistance - To coordinate the City's planning program, including liaison, information and technical assistance to citizens, community groups, Commissions, Boards and the supervision of planning studies and reports;
3. Administration and enforcement – To administer and enforce land use controls such as zoning, subdivision and other technical regulations;

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4. Technical support - To assemble data, prepare maps and maintain a complete information system to support the development of planning policy and the Comprehensive Planning process;
5. Plan preparation, coordination and implementation – To prepare and implement plans, studies and coordination of efforts dealing with the environment, neighborhoods, housing, open space, urban design, historic preservation and other development issues; and
6. Interdepartmental assistance – To assist the other departments of the City in formulating and implementing programs for the Goldsboro area.

8.4.2.2 WATERSHED ADMINISTRATOR AND DUTIES THEREOF

The City of Goldsboro shall appoint a Watershed Administrator, who shall be duly sworn in. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this ordinance as follows:

1. The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.
2. The Watershed Administrator shall serve as clerk to the Watershed Review Board.
3. The Watershed Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Water Quality Section of the Division of Water Quality.
4. The Watershed Administrator is granted the authority to administer and enforce the provisions of this Ordinance, exercising in the fulfillment of his responsibility the full police power of the City of Goldsboro. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Ordinance.
5. The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted for each calendar year to the Water Quality Section of the Division of Water Quality on or before January 1st of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

8.5 HISTORIC PRESERVATION COMMISSION

8.5.1 MEMBERSHIP

A Historic Preservation Commission, known in this Section as the “Commission,” for the City of Goldsboro is hereby created. The Commission shall consist of seven regular members, two alternate members and two ex-officio members. The members at the time of appointment shall reside within the planning and zoning jurisdiction of the City. The members of the Commission shall be qualified by special interest, experience or education in history, architecture, archaeology, or related fields. All members shall reside within the planning and development regulation jurisdiction of the local government as established pursuant to NC G.S. §160D-303. Members of the Commission may be reimbursed for actual expenses in the performance of their duties but will serve without compensation. Alternate members, when acting on the commission, shall have all the same powers and duties as the member for which they substitute.

Two ex-officio members shall serve as follows:

1. The Mayor or one member of the City Council; and
2. An at-large member appointed by the City Council.

8.5.2 QUORUM

A quorum shall consist of four members. All actions shall be taken by a simple majority, excluding vacant seats.

8.5.3 OATH OF OFFICE

All Historic Preservation Commission members shall qualify by taking an oath of office before entering their duties.

8.5.4 TERM OF OFFICE

The members of the Commission shall serve as follows: three for two years, two for three years and two for four years.

8.5.5 ELECTION OF OFFICERS

The Commission shall elect a chairperson and vice chairperson and such other officers as it may deem proper. The term of the chairperson shall be one year, with eligibility for reelection.

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8.5.6 ADOPTION OF RULES AND PROCEDURES

The Commission shall adopt rules and procedures it finds necessary to conduct its business. Any rule or procedure adopted by the Commission shall be consistent with state law and this Ordinance.

8.5.6 MEETINGS

The Commission shall establish a regular meeting schedule. All meetings of the Commission shall be open to the public and whenever feasible the agenda for each Commission meeting shall be made available in advance of the meeting.

8.5.7 RECORDS

The Commission shall keep a public record of its resolutions, transactions, findings and determinations.

8.5.8 CONFLICTS OF INTEREST

Members of the Historic Preservation Commission shall not vote on any advisory or legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial financial impact on the member. An appointed member shall not vote on any zoning amendment if the landowner of the property subject to a 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.

8.5.9 FUNCTIONS AND DUTIES OF THE HISTORIC PRESERVATION COMMISSION

The function and duties of the Commission include:

1. Project approvals – To review and act upon the appropriateness of proposals for alterations, demolitions or new construction within historic districts or to historic landmarks;
2. Historic resources inventory – To undertake an inventory of properties of historical, prehistorical, architectural and/or cultural significance;
3. Historic district and landmark designation – To recommend to the City Council areas to be designated by ordinance as “Historic Districts”; and individual structures, buildings, sites, area or objects to be designated by ordinance as “Landmarks;”
4. Historic property acquisition – To acquire by any lawful means the fee or any lesser included interest, including the option to purchase properties within an established district or any property designated as a landmark;

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5. Negotiation – To negotiate at any time with the owner of a building, site, area or object for its acquisition or preservation;
6. Historic property protection – To restore, preserve and operate historic properties;
7. Revocation of designation – To recommend to the City Council that the designation of any area as a historic district or part thereof, or designation of any building, structure, site, area or object as a landmark, be revoked or removed for cause;
8. Public outreach – To conduct an educational program with respect to historic properties and districts within its jurisdiction;
9. Intergovernmental partnerships - To cooperate with state, federal and local governments in pursuance of purposes of this part. The City Council may authorize the Commission to contract with state and federal governments or any agency of either, or with any other organization provided the terms are not inconsistent with state and federal law;
10. Property inspection – To enter, solely in performance of its official duties and only at reasonable times, upon private lands for the examination or survey thereof. However, no member, employee or agent of the Commission may enter any private building without the express consent of the owner or occupant thereof; and
11. Comprehensive Planning – To prepare and recommend the official adoption of a preservation element of the City's Comprehensive Plan.

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8.7 WATERSHED REVIEW BOARD

8.7.1 MEMBERSHIP

A Watershed Review Board of the City of Goldsboro is hereby created. The Goldsboro Watershed Review Board shall consist of the Board of Adjustment appointed by the City of Goldsboro City council and the Wayne County Board of Commissioners. See Board of Adjustment (Section 8.2) for extraterritorial jurisdiction membership requirements.

8.7.2 QUORUM

See Board of Adjustment (Section 8.2).

8.7.3 OATH OF OFFICE

All Board of Adjustment members shall qualify by taking an oath of office before entering their duties.

8.7.4 TERM OF OFFICE

See Board of Adjustment (Section 8.2).

8.7.5 ELECTION OF OFFICERS

See Board of Adjustment (Section 8.2).

8.7.6 ADOPTION OF RULES AND PROCEDURES

See Board of Adjustment (Section 8.2).

8.7.7 MEETINGS

See Board of Adjustment (Section 8.2).

8.7.8 VOTING

See Board of Adjustment (Section 8.2).

8.7.9 RECORDS

See Board of Adjustment (Section 8.2).

8.7.10 CONFLICTS OF INTEREST

See Board of Adjustment (Section 8.2)

8.7.11 FUNCTIONS AND DUTIES OF THE BOARD OF ADJUSTMENT IN ITS CAPACITY AS WATERSHED REVIEW BOARD

1. Administrative Review. The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this ordinance.
2. Variances. The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this Ordinance as set forth in Section 5.8 of this Ordinance, and which will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. In addition, the City of Goldsboro shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.
 - A. Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:
 - (1) A site plan, drawn to a scale of at least one (1) inch to forty (40) feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.
 - (2) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.
 - (3) The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.
 - B. Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

- (1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:
 - (a) If the applicant complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of the applicant's property.
 - (b) The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.
 - (c) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
 - (d) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.
 - (e) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.
 - (2) The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
 - (3) In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.
- C. In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.
- D. The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
- E. A variance issued in accordance with this Section 5.8 shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Watershed Occupancy Permit for such use is not

obtained by the applicant within six (6) months from the date of the decision.

- F. If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:
- (1) The variance application;
 - (2) The hearing notices;
 - (3) The evidence presented;
 - (4) Motions, offers of proof, objections to evidence, and rulings on them;
 - (5) Proposed findings and exceptions;
 - (6) The proposed decision, including all conditions proposed to be added to the permit.

The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

- (1) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.
 - (2) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.
 - (3) Approval of all development greater than the low density option. (See Section 5.8.6, High Density Development Standards.)
3. Conditions of approval – In granting any special use Tier 1 permit the Board may prescribe additional requirements and safeguards to ensure the purpose of this Ordinance.

8.7.11 ESTABLISHMENT OF WATERSHED REVIEW BOARD

See Section 5.8.

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