

ARTICLE VIII ADMINISTRATION AND LEGAL PROVISIONS

Section 1. Board of Commissioners.

- A. Powers and Duties.** The Ramseur Board of Commissioners shall have certain powers and duties to be carried out in accordance with this Ordinance which include, but are not limited to, the following:
- 1) to initiate and make amendments to the text of this Ordinance and to the Zoning Map;
 - 2) to hear, review and adopt or reject amendments to the text of this Ordinance and to the Zoning Maps;
 - 3) to take such other action not delegated to the Planning Board or Board of Adjustment as the Board of Commissioners may deem desirable and necessary to implement the provisions of this Ordinance; and
- B. Minutes.** Pursuant to GS 160D-308, the Town Board shall keep minutes of its proceedings.
- C. Conflicts of Interest.** A Town Board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to GS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Town Board 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.

Section 2. Planning Board.

- A. Zoning Powers and Duties.** The Ramseur Planning Board shall have certain powers and duties to be carried out in accordance with this Ordinance which include, but are not limited to the following:
- 1) to review and make recommendations to the Board of Commissioners on all matters relating to the land use planning and zoning, including all comprehensive and land-use development plans, within the jurisdiction of the Town of Ramseur, whenever such matters require the attention of the Board of Commissioners;
 - 2) to adopt such rules of procedure necessary for the administration of its responsibilities consistent with this Ordinance; and
 - 3) to assume any other duties assigned by the Board of Commissioners.
- B. Number of Board Members; Appointment.** The Planning Board shall consist of five (5) regular members and one (1) alternate member who shall be

citizens and residents of the Town of Ramseur. They shall be appointed by the Board of Commissioners.

- C. Length of Terms.** Terms of appointment shall be for four (4) years and there shall be no limits of appointment. Any appointee may be removed at any time with cause by a majority vote of the Board of Commissioners.
- D. Vacancies.** Vacancies that may occur for reasons other than term expiration, shall be filled by appointment of the Board of Commissioners for the period of the unexpired term.
- E. Conduct of Meetings.** All meetings of the Planning Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each issue and the absence or failure of any member to vote. Minutes shall be maintained by the Town Clerk and shall be available for public review.
- F. Notice.** The Board shall comply with North Carolina Public Meetings Law prior to the public meeting.
- G. Oath of Office.** Pursuant to GS 160D-309 all members appointed to the Planning Board shall, before entering their duties, qualify by taking an oath of office as required by GS 160A-61.
- H. Minutes.** Pursuant to GS 160D-308, the Planning Board shall keep minutes of its proceedings.
- I. Conflicts of Interest.** Members of the Planning Board shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to GS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A board 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.

Section 3. Board of Adjustment.

- A. Powers and Duties.** The Ramseur Board of Adjustment shall have certain powers and duties to be carried out in accordance with this Ordinance which include the following:
 - 1) to hear and decide appeals from and to review any specific order, requirement, decision or determination made under this Ordinance by the Zoning Administrator in accordance with the provisions of Article X, Section 1;

- 2) to hear and decide petitions for variances from the regulations of this Ordinance in accordance with the provisions of Article X, Section 2;
- 3) to hear, decide and authorize issuance of a special use permit, and
- 4) to adopt such rules of procedure necessary for the administration of its responsibilities consistent with this Ordinance.

- B. Terms of Appointment.** The Board of Commissioners shall perform the function of the Board of Adjustment as outlined above. The terms of appointment for the Board of Adjustment shall be the same as they are for the member's term as a member of the Board of Commissioners.
- C. Voting.** The concurring vote of majority vote of the total membership of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which it is required to pass under this Ordinance. The concurring vote of four-fifths (4/5) of the total membership of the Board shall be necessary to grant a Variance from the provisions of this Ordinance.
- D. Notice.** The Board shall not grant a Variance until a public hearing is held. Notice of such public hearing shall be posted on the property for which the petition is sought and in a local newspaper at least ten (10) days and no more than twenty-five (25) days prior to the public hearing.
- E. Oath of Office.** Pursuant to NCGS 160D-309 all members appointed to the Board of Adjustment shall, before entering their duties, qualify by taking an oath of office as required by NCGS 160A-61.
- F. Minutes.** Pursuant to NCGS 160D-308, the Board of Adjustment shall keep minutes of its proceedings.
- G. Conflicts of Interest.** Members of the Planning Board shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to NCGS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A board 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.

Section 4. Zoning Administrator.

- A. Appointment and Powers.** The Town of Ramseur shall appoint a Zoning Administrator. It shall be the duty of the Zoning Administrator to administer and enforce the provisions of this Ordinance, to pursue all available remedies for

enforcement, and to settle all violations that involve the payment of money to the Town. Appeals from a decision of the Zoning Administrator concerning this Ordinance shall be made to the Board of Adjustment as provided in Article X of this Ordinance.

- B. General Duties.** In addition to any authority granted by other laws and ordinances, the Zoning Administrator shall have certain powers and duties to be carried out in accordance with this Ordinance which include, but are not limited to, the following:
- 1) to serve as an advisor to the Planning Board, the Board of Adjustment and to the Board of Commissioners with regards to their function under this Ordinance;
 - 2) to inform such bodies of all known facts and information pertaining to amendments to the text and maps of this Ordinance, the preparation, adoption and updates of land plans and any other matters brought before him;
 - 3) to maintain and interpret the text of this Ordinance and the Zoning Maps;
 - 4) to maintain development review files and other public records related to the administration and enforcement of this Ordinance;
 - 5) to review applications for zoning permits, administrative development approvals and determinations; temporary use permits; special use permits, property rezoning applications and variances to determine compliance with the intent and provisions of this Ordinance;
 - 6) to authorize the issuance of certificates of compliance after determining that the provisions of this Ordinance have been met;
 - 7) to assist the public in its understanding of the zoning process by providing instructions regarding procedure and applications and by interpreting the Zoning Ordinance; and
 - 8) to establish such rules of procedure as are necessary and proper for the administration of responsibilities under this Ordinance.
- C. Delegation.** The Zoning Administrator may designate other individuals to assist with carrying out the administration of this Ordinance under his authority.
- D. Records.** The Zoning Administrator shall ensure that appropriate records are maintained of all permit applications, site plans and permits issued. These may be made available for inspection for interested parties.
- E. Inspection and Enforcement.** The Zoning Administrator shall conduct or authorize inspections of premises and take other lawful action to ensure compliance with the provisions of this Ordinance.
- F. Appeals.** Appeals from a decision of the Zoning Administrator shall be made to the Board of Adjustment as provided in Article X, Section 1.

- G. Conflicts of Interest.** No staff member shall make a final decision on an administrative decision required by NCGS 160D 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.

Section 5. Zoning Permits.

- A. Applicability.** No person shall undertake any development activity or use of land that is subject to this Ordinance without a Zoning Permit.

B. General Requirements.

- 1) Applications, including appropriate site plans to ensure compliance with the standards of this Ordinance, shall be submitted by the property owner or his authorized agent. The Zoning Administrator may require reasonable proof of ownership or authorization from any person submitting an application for a zoning permit.
- 2) The application shall be accompanied by such information as the Zoning Administrator may require, to ensure that such development conform in all respects to the provisions of this Ordinance.
- 3) The Zoning Administrator shall not issue a zoning permit unless the plans, specifications, and intended use of such buildings, structure, land or part thereof conform in all respects to the provisions of this Ordinance.

Section 6. Administrative Development Approvals and Determinations.

It shall be the responsibility of the Zoning Administrator to make determinations under development regulations.

- A. Determinations and Notice of Determination.** Determinations shall be given in writing to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.
- B. Duration of Development Approval.** A development approval issued expires one year after the date of issuance if the work authorized by the development approval has not been substantially commenced.
- C. Changes.** After a development approval has been issued, no deviations from the terms of the application or the development approval shall be

made until written approval of proposed changes or deviations has been obtained.

- D. Inspections.** Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.
- E. Revocation of Development Approvals.** In addition to initiation of enforcement actions under NCGS 160D-404, development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to NCGS 160D-405. If an appeal is filed regarding an administrative development approval or determination by the Town pursuant to this Article, the provisions in Article X, Section 1(d) of this Ordinance regarding stays apply.

Section 7. Determination of Exact Location of Zoning District Boundary Lines.

The Zoning Administrator shall decide the exact location of zoning district boundary lines when a question arises concerning boundary lines shown on zoning maps, subject to administrative review by the Board. The determination of the exact location of a zoning district's boundary line shall be guided by the provisions of Article III, Section 3.

Section 8. Interpretation, Purpose and Conflict.

In interpreting and applying the provisions of this Ordinance they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

Section 9. Separability.

Should any article, section, subsection, paragraph, sentence, clause, phrase, or district boundary of this Ordinance and/or the Zoning Map which is a part of this Ordinance herein or hereafter adopted be decided by the courts to be unconstitutional or invalid, such decisions shall not affect the validity of these regulations and the Zoning Map as a whole or any part thereof other than the part so decided to be unconstitutional or invalid. The Board of Commissioners hereby declares that it would have adopted this Ordinance and Zoning Map, irrespective of the fact that any one or more articles, sections, subsections, paragraphs, sentences, clauses, phrases, or district boundaries be declared unconstitutional or invalid.

Section 10. Vested Rights.

Zoning "vested rights" as established under G.S. NCGS 160D-102, -108, and -108.1 ensures that a properly issued development approval will protect the applicant against zoning changes that will affect the allowable type and intensity of use.

A person claiming a vest right (had obtained a building permit to construct a residence or started a development and/or had a site-specific plan approved by your board). The Zoning Administrator would determine if in fact the person has a vested right, and his decision may be appealed to the Board of Adjustment.

Process to Claim Vested Right:

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the Zoning Administrator. The Zoning Administrator shall determine if a vested right exists. The Zoning Administrator's determination may be appealed to the Board of Adjustment. On appeal the existence of a vested right shall be reviewed *de novo*. In lieu of seeking such a determination, a person claiming a vested right may take an original civil action appeal to the Randolph County Superior Court.

Duration and Types of Statutory Vested Rights:

A. Six months – Building Permits. Pursuant to GS 160D-1111, a building permit expires six months after issuance unless work under the permit has commenced. If

after commencement the work is discontinued for a period of twelve (12) months, the permit shall immediately expire. No work authorized by any building permit that has expired shall thereafter be performed until a new permit has been secured.

- B. One year – Other Development Approvals.** Pursuant to GS 160D-403(c), unless otherwise specified by statute or local ordinance, all other development approvals expire one year after issuance unless work has substantially commenced. Expiration of a development approval shall not affect the duration of a vested right established under this section or vested rights established under common law.
- C. Two years – Site-Specific Vesting Development Plans.** A site-specific development plan shall be vested for two years after it is approved. Amendments shall not extend the vesting period unless specified at the time of approval.
- D. Seven years – Multi-Phase Developments.** A multi-phase development approved containing 25 acres or more and subject to a master development plan with committed elements including a requirement to offer land for public use as a condition of its master development plan approval.
- E. Exceptions.** A vested right, once established as provided for by this section, precludes any zoning action by the town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except those explicitly outlined in GS 160D-108(f).

Section 11. Permit Choice.

If an application for development approval has been made and subsequent to the date of that application, a development regulation changes or is proposed, the development permit applicant may choose the version of the regulation existing at the time of the application. The applicant may choose the existing regulation without waiting for final action on the proposed regulation change.

Section 12. Moratoria.

The Town of Ramseur may adopt temporary moratoria on any Town development approval by law. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions. Except in cases of imminent and substantial threat to duration of sixty (60) days or any shorter period, the Board of Commissioners shall hold a public hearing and publish a notice of the hearing in a newspaper having general circulation in the area not less than seven (7) days before the date set for the hearing. A development moratorium with a duration of sixty-one (61) days or longer, and any extension of a moratorium so that the total duration of sixty-one (61) days or longer, is subject to the notice and hearing requirements of NCGS § 160D-601. Absent an imminent threat to the public health or

safety, a development moratorium adopted pursuant to this Section shall not apply to any project for which a valid building permit issued pursuant to NCGS § 160D-403 and -1110 is outstanding, to any project for which a conditional district zoning or special use permit application has been accepted, to development set forth in a site-specific or phased development plan approved pursuant to NCGS § 160D-102, -108, and -108.1, to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the Town prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the Town prior to the call for public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.

Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:

- A. A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the Town and why those alternative courses of action were not deemed adequate.
- B. A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
- C. An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
- D. A clear statement of the actions, and the schedule for those actions, proposed to be taken by the Town during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

No moratorium may be subsequently renewed or extended for any additional period unless the Town shall have taken all reasonable and feasible steps proposed to be taken by the Town in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in subdivisions (A) through (D) of this subsection, including what new facts or conditions warrant the extension.

Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent such action, the Town shall have the burden of showing compliance with the procedural requirements of this subsection.