

CHAPTER 4
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SECTION 4.1 SUMMARY OF ORDINANCE ADMINISTRATION AND REVIEW ROLES

4.1.1 ORDINANCE ADMINISTRATION AND REVIEW BODIES

The following persons and entities shall have roles in administering the provisions of this Ordinance:

- A. Town Council
- B. Administrator
- C. Planning Board
- D. Board of Adjustment
- E. Technical Review Committee

4.1.2 SUMMARY OF ADMINISTRATION AND REVIEW ROLES

Table 4.1-1 summarizes the review and decision-making responsibilities of the entities that have specific roles in the administration of this Ordinance. The “section” numbers shown indicate the section of this Ordinance where specific procedures are detailed.

TABLE 4.1-1
SUMMARY OF ORDINANCE ADMINISTRATION AND REVIEW BODIES

PROCEDURE	SECTION	ADMINISTRATOR	TECHNICAL REVIEW COMMITTEE	BOARD OF ADJUSTMENT	PLANNING BOARD	Town COUNCIL
Text Amendment	5.17	A			E	D
Map Amendment	5.16	A	E		E	D
Zoning Permit	5.3	A; D		C		
Building Permit	5.4					
Site Plan	5.2	A; D	E	C		
Major Subdivision Sketch Plan	13.9	A; D			C	C
Major Subdivision Preliminary Plat	13.9.2	A	E		E	D
Major Subdivision Final Plat	13.9.3	A; D			C	C
Minor Subdivision	13.8	A; D	E		C	C
Temporary Use Permit	5.8	A; D		C		
Home Occupation/ Accessory Use Permit	5.9	A; D		C		
Vested Rights Certificate	5.10	A			E	A
Conditional Zoning	5.11	A	E		B	D
Special Use Permit	5.12	A		D		
Admin. Appeal	5.13	A		D		
Variance	5.14	A		D		
Minor Modifications to Standards	5.15	A; D		C		
Watershed Permit	15.5	A; D			C	
Watershed Variance / Appeal / High Density	15	A				
Flood Plain Development Permit	16.4	A; D			A	
Flood Plain Variance /	16.4.5	A		D		
Manufactured Home Park (pre-existing) Operating Permit	14.7	B			A; D	

KEY:

A = Receive Application;
 B = Review;
 C = Appeal Administrator's Decision or Planning Board Decision;
 D = Final Decision;
 E = Recommendation

SECTION 4.2 TOWN COUNCIL

4.2.1 POWERS AND DUTIES

The governing board shall have the following powers and duties:

- A. To appoint members to the Planning Board pursuant to G.S. 160D-301 and Board of Adjustment pursuant to G.S. 160D-302.
- B. To initiate, adopt, and amend a Comprehensive Plan.
- C. To initiate amendments to the text of this Ordinance.

- D. To review recommendations of the Planning Board and make final decisions on applications for amendments to the text of this Ordinance pursuant to G.S. 160D-604.
- E. To hear, review, approve, conditionally approve or deny requests for special use permits.
- F. To adopt and amend a schedule of fees for a variety of procedures addressed in this Ordinance.
- G. To hear, review, and approve, conditionally approve, or deny amendments to the Official Zoning Map after a recommendation of the Planning Board has been submitted pursuant to G.S. 160D-604.
- H. To hear appeals of decisions made by the Planning Board regarding subdivision plats as provided for in Section 13.6.

4.1.3 OATH OF OFFICE

All members appointed to boards shall, before entering their duties, qualify by taking an oath of office as required by G.S. 160A-61.

SECTION 4.3 UDO ADMINISTRATOR

4.3.1 ESTABLISHMENT AND DUTIES

The provisions of this Ordinance shall be administered and enforced by the Unified Development Ordinance Administrator (hereafter referred to as the “UDO Administrator” or the “Administrator”) and any other officials designated by the Town for the administration of this Ordinance. The Town shall have the authority to appoint one (1) or more persons to serve as the “Administrator.”

4.3.2 APPEALS FROM THE DECISIONS OF THE ADMINISTRATOR

Appeals from the decisions of the Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made in the enforcement of this Ordinance shall be made to the Board of Adjustment in accordance with Section 5.13 of this Ordinance.

SECTION 4.4 PLANNING BOARD

Pursuant to G . S . 1 6 0 D - 3 0 1 there is hereby established a planning agency known as the Town of McAdenville Planning Board.

4.4.1 POWERS AND DUTIES

The Planning Board shall have the following powers and duties:

- A. To prepare or hear, review and make recommendations on the content of a comprehensive plan, land use plan, and other plans that address land use and planning related issues and to submit such plan to the governing board.
- B. To prepare or hear, review and make recommendations on amendments to any such plans for submittal to the Town Council.
- C. To initiate or hear, review, and make recommendations to the Town Council applications for amendments to the text of this Ordinance or to the Official Zoning Map.
- D. To adopt rules of procedure for the conduct of its meetings and for any other purposes deemed necessary and consistent with this Ordinance and all other applicable local and State regulations.
- E. To render decisions on preliminary plats of major subdivisions, when acting as Watershed Review Board; to make recommendations on sketch plans on major subdivisions, rezonings, text changes, map changes.
- F. To grant variances to the Subdivision Chapter and Watershed Water Supply Chapter.
- G. To provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.

4.4.2 MEMBERSHIP

- A. The Town Council shall appoint seven (7) members to the Planning Board as provided in this Ordinance. Six (6) members shall be citizens and residents of the Town and one (1) member shall be a citizen of Gaston County who reside outside the Town, but within the extraterritorial jurisdiction of the Town pursuant to G . S . 1 6 0 D - 3 0 7 as specified by an extraterritorial boundary ordinance adopted pursuant to G . S . 1 6 0 D - 2 0 2 , a n d - 9 0 3 . Except in the case of filling a vacancy, each such appointment shall be for a term of three (3) years.

- B. The members of the Planning Board shall elect one (1) of their members as Chair and one (1) as Vice-Chair. In the absence of the Chair, the Vice-Chair shall act as Chair and shall have all powers of the Chair. In the absence of both, the Board shall elect a temporary chair to conduct the meeting. The Chair, or in the Chair's absence the Vice-Chair, shall administer oaths, be in charge of all proceedings before the Board, and take such action necessary to preserve the order and integrity of all proceedings before the Board.

4.4.3 SECRETARY

A secretary shall be appointed to serve the Planning Board. The Secretary shall keep Planning Board minutes showing the vote of each member on all voting matters. In addition, the Secretary shall maintain all records of Planning Board meetings, hearings and proceedings, as well as the correspondence of the Planning Board. All such minutes, records and files shall be housed in the office of the Planning Department as a public record.

4.4.4 STAFF

The Director (or his designee) shall serve as the professional staff to the Planning Board.

SECTION 4.5 BOARD OF ADJUSTMENT

4.5.1 ESTABLISHMENT AND DUTIES

- A. Pursuant to G.S. 160D-302, a Board of Adjustment is hereby established. The duties of the Board of Adjustment shall be as follows:
1. To hear and decide appeals from the decisions of the Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the Administrator in the enforcement of this Ordinance pursuant to Section 5.13.
 2. To hear and decide on applications for variances from the terms of this ordinance pursuant to Section 5.14.
 3. To hear and decide on applications for special use permits as provided in Section 5.12 of this Ordinance.
 4. To interpret the Official Zoning Map and shall pass upon disputed questions of lot lines or district boundary lines and similar questions that may arise in the administration of this Ordinance.

5. To adopt rules of procedures for the conduct of its meetings, so long as such policies and procedures are consistent with this Ordinance and all other applicable local and State regulations.
 6. Reserved.
 7. The Board of Adjustment shall exercise any other powers as may be granted herein by this Ordinance. In carrying out its duties, the Board of Adjustment may subpoena witnesses and compel the production of evidence.
- B. The Board of Adjustment shall not have power, jurisdiction, or authority to amend any ordinance or grant use variances.

4.5.2 QUASI-JUDICIAL PROCEDURES

The consideration and final decision on any application for an appeal, variance, special use permit, or interpretation, as provided above, shall be made by the Board of Adjustment only after a quasi-judicial evidentiary hearing has been properly advertised and convened.

4.5.3 MEMBERSHIP

The Board of Adjustment shall consist of seven (5) regular and two (2) alternate members, each appointed by the Town Council. All of the members of the Board of Adjustment shall be residents of McAdenville who reside in the area in which the UDO has jurisdiction as indicated on the Official Zoning Map. Alternate members who attend any regular or special meeting of the Board and who serve in the absence of any regular member at any such meeting shall have and exercise all the powers and duties of such regular member so absent.

4.5.4 SECRETARY

A secretary shall be appointed to serve the Board of Adjustment. The Secretary shall keep Board of Adjustment minutes showing the vote of each member on all voting matters. In addition, the Secretary shall maintain all records of Board of Adjustment meetings, hearings and proceedings, as well as the correspondence of the Board of Adjustment. All such minutes, records and files shall be housed in the office of the Planning Department as a public record.

4.5.5 STAFF

One (1) or more persons shall be appointed to serve as the staff to the Board of Adjustment.

4.5.6 QUORUM

No meeting of the Board of Adjustment may be called to order, nor may the Board of Adjustment transact any business not requiring an evidentiary hearing without a quorum consisting of a majority of the appointed regular membership of said body.

4.5.7 RESERVED

4.5.8 RESERVED

4.5.9 APPLICATION PROCEDURE

The following regulations apply to all applications submitted to the Board of Adjustment:

- A. Before a petition for an administrative appeal, special use permit, interpretation of the zoning ordinance maps, or variance is heard and an evidentiary hearing conducted by the Board of Adjustment, an application (on a form provided by the Administrator) shall be submitted to the Administrator along with a fee in accordance with a fee schedule established by the Town Council. Said fee shall be waived for any petition request made on behalf of the Town of McAdenville, or the State of North Carolina. In addition, a list of names and addresses of the owners of all contiguous properties (as herein defined), from the most recent official tax records, shall be provided by the applicant and shall accompany all applications except petitions for appeals and interpretations.
- B. The filing of any application stays all proceedings and fines unless the Administrator certifies that a stay in his opinion will cause imminent peril to life or property, or, that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the Ordinance. In that event, proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment, Town Council, or by the Superior Court of Gaston County.
- C. Within five (5) working days after having received an application for an appeal, interpretation, variance, or special use permit, the Administrator shall determine whether the application is complete. If he determines that the application is not complete, he shall serve a written notice on the applicant specifying the application's deficiencies. The Administrator shall take no further action on the application until the Deficiencies are remedied. If the Administrator fails to notify the applicant within said five (5) working day period, the application shall be deemed complete.

4.5.10 HEARING NOTIFICATION

The Town shall give notice of all Board of Adjustment evidentiary hearings.

A. INTERPRETATIONS; APPEALS

The Town shall send a notice by first class mail to the applicant (and to the owner(s) of any properties that have given rise to the application). The Administrator shall also post in Town Hall a conspicuous location a notice that indicates the nature of the evidentiary hearing and the date, time, and place at which the evidentiary hearing is to occur. Said notices shall be mailed / posted at least ten (10) days prior to the public hearing.

B. VARIANCES; SPECIAL USE PERMITS

1. Notices shall be sent by the Town by first class mail to the applicant, and to owners of all contiguous properties. The Administrator shall also post a copy of such notice in Town Hall in a conspicuous location. Each notice shall indicate the nature of the evidentiary hearing and the date, time and place at which it is to occur and shall be mailed / posted at least ten (10) days prior to the evidentiary hearing
2. At least one (1) sign also shall be conspicuously placed by the Town on the subject property(ies) indicating the evidentiary hearing date, time, case number and contact telephone number. Said sign(s) shall be placed at least ten (10) days prior to the evidentiary hearing. The posted notice may only be removed once the evidentiary hearing has been concluded. **NOTE:** The Administrator may waive the sign- posting requirement or relocate the placement of the sign(s) where the literal application of this provision would serve no meaningful purpose.

4.5.11 BOARD OF ADJUSTMENT DECISION

- A. The Board of Adjustment shall hold a quasi-judicial evidentiary hearing on an application no later than forty-five (45) days after a complete application has been filed with the Administrator. The Board of Adjustment shall decide on the matter that was presented at the evidentiary hearing within thirty (30) days of the close of the evidentiary hearing.
- B. The concurrent vote of four-fifths (4/5) of the voting members of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial

matter or to determine an appeal made in the nature of certiorari. Vacant positions on the Board of Adjustment and Board of Adjustment members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the Board of Adjustment" for calculation of the requisite majority if there are no qualified alternate members available to take the place of such members.

- C. The Board shall determine contested facts and make its decision based upon competent, material and substantial evidence in the record.
- D. All decisions of the Board of Adjustment shall be in writing and signed by the chair other duly authorized member and filed with the Administrator. A written copy thereof shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner and to any person who has submitted a written request for copy, prior to the date the decision becomes effective. The Administrator shall certify that proper notice has been made.

4.5.12 APPEALS FROM THE BOARD OF ADJUSTMENT / REHEARING

- A. An application for a rehearing shall be made in the same manner as provided for in the original hearing within a period of thirty (30) days after the date of the Board of Adjustment's decision. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. The Board of Adjustment shall deny a rehearing, if, in its judgment, such change in facts, evidence or conditions has not been proven. An evidentiary hearing shall not be required to be held by the Board of Adjustment to consider holding such a rehearing. Approval of said consideration, however, shall require an affirmative vote of at least four-fifths (4/5) of the Board of Adjustment's voting membership. In the event that the Board of Adjustment finds that a rehearing is warranted, it shall thereupon proceed as in the original hearing.
- B. Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application affecting all or any portion of the same property(ies) may not be filed for a period of one year after the date of denial of the original application.
- C. Every decision of the Board of Adjustment shall be subject to review by the Superior Court of Gaston County by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within thirty (30) days after the later of the date the decision is effective, or after a written copy thereof is delivered in

accordance with Section 4.5.11D. When first class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

SECTION 4.6 TECHNICAL REVIEW COMMITTEE

4.6.1 POWERS AND DUTIES

The Technical Review Committee (TRC) shall review Plats / Plans based on standards set forth in this ordinance and make recommendations as shown in Table 4.1-1

4.6.2 MEMBERSHIP

A. The TRC may be comprised of the following persons (if such person is not listed by his/her specific title, then the Town Administrator, or the head of the agency listed below, or their designee, shall have the authority to appoint one (1) person to serve on the TRC:

1. McAdenville Planning Board Member;
2. McAdenville Public Works Director;
3. McAdenville Zoning Administrator;
4. McAdenville Parks and Recreation Director;
5. McAdenville Police Chief;
6. McAdenville Fire Chief;
7. Town Council Member

B. Such persons shall serve on the TRC at the pleasure of the Town Administrator or their respective agency head, provided, however, that the TRC shall at all times consist of at least one (1) person from each such agency listed above.

C. If the TRC has not been appointed by the town the Planning Board will act as the TRC.

4.6.3 SECRETARY

A secretary shall be appointed to serve the TRC. The Secretary shall prepare

the agendas, keep attendance records and recommendations, send correspondence on any changes required, and be the liaison between the TRC and other Boards / Applicant, other duties as determined. All such records shall be maintained as part of each case and filed in the office of the Planning Department.

4.6.4 REVIEWS

The TRC shall review all plans that go to public hearings. Some plans may be required to be re-reviewed by the TRC after the public hearing.