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1.1 TITLE

1.1.1 LAND MANAGEMENT ORDINANCE TEXT

This Ordinance shall be officially known as the "Land Management Ordinance of the Town of Elon, North Carolina" and may be referred to as "this Ordinance" and several abbreviated references, including "the LMO" or "this LMO."

1.1.2 OFFICIAL ZONING MAP

The zoning map referenced in this Ordinance is officially titled as the "Zoning Map, Town of Elon, North Carolina" and may be referred to as "the Official Zoning Map" or the "Zoning Map."

1.2 APPLICABILITY

1.2.1 GENERAL APPLICABILITY

The provisions of this Ordinance shall apply to the development of all land within the corporate limits and the Extraterritorial Jurisdiction (ETJ) of the Town of Elon, as shown on the adopted Official Zoning Map, unless the development is expressly exempted by a specific section or subsection of this Ordinance.

1.2.2 APPLICATION TO GOVERNMENTAL UNITS

Except when stated elsewhere in applicable law, this Ordinance applies to the following:

- A. **THE TOWN OF ELON**
Development by the Town or its agencies or departments.
- B. **COUNTY AND STATE GOVERNMENT**
Development of buildings by State or County agencies or departments, public colleges or universities, or other political subdivisions of the State, in accordance with the standards in Section 160D-913 of the North Carolina General Statutes.
- C. **THE FEDERAL GOVERNMENT**
Development owned or held in tenancy by the government of the United States, its agencies, departments, or corporate services, to the full extent permitted by federal law. For those activities of the federal government exempted from these regulations, compliance is strongly encouraged.

1.2.3 NO DEVELOPMENT UNTIL COMPLIANCE WITH ALL APPLICABLE LAW

No structure, land, or use thereof, shall hereafter be established, located, subdivided, extended, converted, altered, developed, or disturbed in any way without full compliance with the terms of this Ordinance and other applicable law.

- A. **NO LAND DEVELOPED**
Unless exempted, no land shall be developed without compliance with this Ordinance and all other applicable Town, State, and federal regulations.
- B. **NO GRADING OR EXCAVATION**
Unless exempted, no land shall be subjected to clearing, grading, filling, or excavated without compliance with this Ordinance and all other applicable Town, State, and federal regulations.
- C. **NO REMOVAL OF TREES**
Unless exempted, no trees of a minimum size regulated by this Ordinance shall be removed without compliance with this Ordinance and all other applicable Town, State, and federal regulations.
- D. **NO USE OR OCCUPANCY**
No person shall use, occupy, or divide any land or a building or authorize or permit the use, occupancy, or division of land or a building under their control, except in accordance with this Ordinance and all other applicable Town, State, and federal regulations.

E. NO BUILDING CONSTRUCTED

No building or structure, or portion thereof, shall be erected, used, occupied, maintained, moved, or altered except in conformity with the applicable regulations in this Ordinance and all other applicable Town, State, and federal regulations.

F. NO SALE OR TRANSFER

No lots in a subdivision may be sold or titles to land transferred until all the requirements of this Ordinance have been met, except as authorized by Section 160D-807 of the North Carolina General Statutes.

G. NO DOUBLE COUNTING OF REQUIRED AREAS

No land area or other required space counted as part of a required yard, setback, lot area, parking area, or similar feature of one lot may be counted towards the requirements of another lot.

H. NO EXEMPTION FROM SUBDIVISION REQUIREMENTS

Unless exempted in accordance with Section 152.105 or Section 160D-802 of the North Carolina General Statutes, the standards and requirements in this Ordinance applicable to subdivisions of land shall apply to the subdivision or re-subdivision of land within a bona fide farm or on land occupied by agricultural activities.

1.2.4 THESE ARE MINIMUM REQUIREMENTS

In the application of this Ordinance, all provisions shall be considered as minimum requirements and shall not be deemed to limit or repeal any other powers or authority granted under the North Carolina General Statutes.

1.2.5 ACTIVITIES EXEMPTED FROM THIS ORDINANCE

The following forms of development and activities are exempted from the requirements of this Ordinance:

- A. Agricultural and agri-tourism related activities taking place on a bona fide farm in accordance with Section 160D-903 of the North Carolina General Statutes;
- B. Forestry activities completed on a bona fide farm or as subject to a forestry management plan approved in accordance with Section 160D-921 of the North Carolina General Statutes; and
- C. The division of land into parcels as part of a probated will or in accordance with the intestate succession provisions of Chapter 29 of the North Carolina General Statutes.

1.3 AUTHORITY

This Ordinance consolidates the Town’s zoning, subdivision and environmental protection regulations, as authorized by the North Carolina General Statutes. It is adopted in accordance with:

- A. The North Carolina General Statutes, including, but not limited to:
 - 1. Chapter 160A, Article 8 (Police Powers);
 - 2. Chapter 160A, Article 15 (Streets, Traffic, and Parking);
 - 3. Chapter 160D (Local Planning and Development Regulation);
 - 4. Chapter 143, Article 21 (Water and Air Resources);
- B. The Charter of the Town of Elon, North Carolina; and
- C. Other relevant laws, including but not limited to:
 - 1. All other relevant laws of the State of North Carolina; and
 - 2. Any special legislation enacted by the General Assembly.

1.4 CONFLICT

Conflicts with other Town laws, State laws, or between standards in this Ordinance shall be addressed in accordance with the following:

1.4.1 CONFLICTS WITH STATE OR FEDERAL LAW

If a provision of this Ordinance is inconsistent with State or federal law, the more restrictive provision controls, to the extent permitted by law.

1.4.2 CONFLICTS WITH OTHER TOWN CODES OR LAWS

If a provision of this Ordinance is inconsistent with another provision found in other adopted ordinances of the Town, the more restrictive provision shall govern, unless the terms of the more restrictive provision specify otherwise.

1.4.3 CONFLICTS BETWEEN STANDARDS IN THIS ORDINANCE

A. GENERALLY

Unless subject to the standards in Section 1.4.3, Alternatives, in cases where two or more standards in this Ordinance conflict with one another, the more restrictive standard shall control.

B. ALTERNATIVES

1. OVERLAY DISTRICTS

- a. In cases where one requirement of this Ordinance such as a zoning district standard, conflicts with an otherwise applicable standard associated with an overlay zoning district, the overlay zoning district standard shall prevail even if it is not the most restrictive standard.
- b. In cases where land is located in two or more different overlay zoning districts and the standards between the overlay districts conflict, the standards applied by State or federal requirements shall control.

2. AUTHORIZED DEVIATIONS OR INCENTIVES

Authorized deviations, such as an approved administrative adjustment or density incentives that are authorized by and established in accordance with this Ordinance such as those associated with voluntary compliance with design guidelines, shall control and not be considered to conflict with other more restrictive standards in this Ordinance.

3. DEVELOPMENT STANDARDS

- a. In cases where a development standard in Chapter 7, Development Standards, conflicts with an otherwise applicable use standard in Section 4.2, Principal Uses, the use standard in Chapter 4 shall control.
- b. In cases where a zoning district standard from Chapter 3, Zoning Districts, conflicts with a development standard in Chapter 7, Development Standards, the provisions in Chapter 3 shall control.

C. TEXT AND ILLUSTRATIONS

1. In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.
2. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

1.4.4 CONFLICTS WITH PRIVATE AGREEMENTS

In cases where the standards in this Ordinance conflict with private agreements, covenants, or deed restrictions established after *[insert the effective date of this Ordinance]* and the standards in this Ordinance are more restrictive, the standards in this Ordinance shall control.

1.4.5 CONFLICTS WITH CONDITIONS OF APPROVAL

In cases where the standards in this Ordinance conflict with an authorized and legally established condition of approval that has not expired, the condition of approval shall control.

1.4.6 DETERMINATION OF THE MORE RESTRICTIVE STANDARD

The more restrictive provision is the one that imposes greater restrictions, burdens, or more stringent controls.

1.5 EFFECTIVE DATE

This Ordinance shall be in full force and effect on (*insert the effective date of this Ordinance*), and repeals and replaces the Town of Elon Land Development Ordinance, as originally adopted on December 15, 2004, and most recently amended in June of 2021.

1.6 GENERAL PURPOSE AND INTENT

Town residents, business owners, and government officials recognize that unfettered growth or growth that is inconsistent with Elon's small-town character would forever alter the identity of Elon. It is now and has been the policy of the Town Council of the Town of Elon to promote the health, safety, and general welfare of the residents of and visitors to the Town, and to provide for the continued orderly development of The Town of Elon. This Ordinance has been made with reasonable consideration for the unique residential setting and small-town character of the community and the long-range goal of enhancing the value of existing property and encouraging the most appropriate use of the land throughout the Town, thereby promoting the general welfare of all citizens. In support of these purposes, this Ordinance contains regulations designed to:

- A. Maintain a small-town appeal and an attractive appearance of the community while continuing to encourage managed growth;
- B. Foster a more diverse tax base and range of employment to ensure the Town's fiscal solvency and avoid undue burdens on residential property owners;
- C. Support mixed-use development within the downtown, along key commercial corridors and in designated activity centers throughout the Town's planning jurisdiction;
- D. Ensure Town residents have a wide range of housing options that allow for varying income levels and diverse housing preferences;
- E. Motivate growth that pays for itself in support of sustainable fiscal management of municipal services;
- F. Ensure that growth and the natural environment exist in harmony;
- G. Preserve valuable open space throughout the Town and stimulate the expansion of the community's parks and greenways;
- H. Advance further development of walking trails and bicycle paths throughout the community with connections to other multi-use trails in the area;
- I. Facilitate a well-planned infrastructure with sufficient provision for transportation, water and wastewater services, and other public requirements in an environmentally responsible and timely manner;
- J. Encourage the preservation of historic structures and sites within the Town;
- K. Increase community involvement by providing a means of meaningful cooperation between the community and Town government thus facilitating community pride;
- L. Foster increased communication and collaboration between the Town of Elon and Elon University;
- M. Help secure safety from fire, crime, and other dangers;
- N. Protect Elon's tree canopy which provides clean air, minimizes increases in temperature levels, helps to maintain moisture levels, and provides physical and visual buffers;
- O. Help prevent the overcrowding of land and undue concentration of population;
- P. Regulate the size of yards, courts, and other spaces;
- Q. Regulate the density and distribution of boundaries thereof;
- R. Provide penalties for violations; and
- S. For other purposes described herein.

1.7 LANGUAGE CONSTRUCTION

The following rules shall apply for construing or interpreting the terms and provisions of this Ordinance.

1.7.1 MEANINGS AND INTENT

- A. All provisions, terms, phrases, and expressions contained in this Ordinance shall be interpreted in accordance with the general purposes set forth in Section 1.6, General Purpose and Intent, and the specific purpose statements set forth throughout this Ordinance.
- B. When a specific section of these regulations gives a different meaning than the general definition provided in Chapter 2, Definitions, the specific section's meaning and application of the term shall control.
- C. Terms that are not defined are subject to their common or customary meaning.

1.7.2 HEADINGS, ILLUSTRATIONS, AND TEXT

- A. In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.
- B. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

1.7.3 LISTS AND EXAMPLES

Unless otherwise specifically indicated, lists of items or examples that use terms like "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

1.7.4 COMPUTATION OF TIME

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the Town.

1.7.5 TIME-RELATED LANGUAGE

- A. Whenever certain hours are named, they shall mean standard time or daylight savings time as may be in current use by the Town.
- B. The term "day" means a calendar day, or any day during a week, including business days and weekend days.
- C. The term "holiday" means a legal holiday recognized by the Town.
- D. The term "week" means five business days and two weekend days. Weeks commence on a Monday.
- E. The term "month" means a calendar month.
- F. The term "year" means a calendar year.
- G. The term "temporary" shall mean a condition lasting for only a limited period of time; not permanent.

1.7.6 REFERENCES TO THIS ORDINANCE

A reference to a chapter, section, sub-section, or paragraph means a chapter, section, sub-section, or paragraph of this Ordinance, unless otherwise specified.

1.7.7 REFERENCES TO OTHER REGULATIONS OR PUBLICATIONS

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition or adopted version of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

1.7.8 REFERENCES TO NORTH CAROLINA GENERAL STATUTES

Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section.

1.7.9 DELEGATION OF AUTHORITY

Whenever a provision of this Ordinance requires or authorizes an officer or employee of the Town to do some act or perform some duty, the officer or employee may designate, delegate, or authorize subordinates to perform the act or duty unless the terms of the provision specifically provide otherwise.

1.7.10 JOINT AUTHORITY

All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

1.7.11 TECHNICAL AND NON-TECHNICAL TERMS

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

1.7.12 PUBLIC OFFICIALS AND AGENCIES

All public officials, bodies, and agencies to which references are made are those of the Town of Elon, unless otherwise indicated.

1.7.13 MANDATORY AND DISCRETIONARY TERMS

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may," "can," and "should" are permissive in nature.

1.7.14 CONJUNCTIONS

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

- A. "And" indicates that all connected items, conditions, provisions or events apply.
- B. "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

1.7.15 TENSES, PLURALS, AND GENDER OF WORDS

- A. Words used in the past or present tense include the future tense as well as the past and present.
- B. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.
- C. Words used in the masculine gender include the feminine gender and the neuter, and vice versa.

1.7.16 OATH

The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in like cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

1.7.17 TERM NOT DEFINED

If a term used in any chapter of this Ordinance is not defined, the Planning Director is authorized to interpret the term in accordance with Section 2.1.2, Words not Defined in the LMO.

1.8 RELATIONSHIP TO ADOPTED POLICY GUIDANCE

1.8.1 GUIDANCE IDENTIFIED

The administration, enforcement, and amendment of this Ordinance shall be accomplished in accordance with the Town's adopted planning policy framework. This includes the Envision Elon Comprehensive Land Use Plan, the Elon Bicycle, Pedestrian, Lighting Plan, and any other adopted planning documents.

1.8.2 CONFORMANCE

A. ADVISORY

Adopted policy guidance is advisory in nature and does not carry the effect of law. Consistency with adopted policy guidance is not a requirement for the continuing validity of any provision of this Ordinance, except as provided in Section 160D-604 and Section 160D-605 of the North Carolina General Statutes.

B. CONSISTENCY

This Ordinance is intended to ensure that all development within the Town is consistent with the goals, objectives, policies, strategies, and actions contained in the Town's adopted policy guidance.

C. AMENDMENT UPON INCONSISTENCY

1. To the extent this Ordinance or the Official Zoning Map is or becomes inconsistent with the Town's adopted policy guidance, the aforementioned documents should be amended to remain consistent.
2. Consistency with adopted policy guidance is not a prerequisite for approval of a rezoning or planned development application, and the future land use map portion of the Land Use Plan shall be deemed amended when the Town Council approves a rezoning or planned development application that is inconsistent with the future land use map in accordance with Section 160D-605 of the North Carolina General Statutes.

1.9 RELATIONSHIP TO OTHER LAWS

1.9.1 PRIVATE AGREEMENTS, EASEMENTS, OR COVENANTS

- A. Except as hereinafter provided, this Ordinance shall not be deemed to interfere with, abrogate, annul, or otherwise affect in any manner whatsoever any easement, covenants, deed restrictions, or other private agreements between private parties.
- B. Unless deed restrictions, covenants, or other contracts directly involve the Town of Elon as a party in interest, the Town shall have no administrative responsibility for enforcing such deed restrictions, covenants, or contracts.

1.9.2 VESTED RIGHTS

Nothing in this Ordinance is intended to repeal, supersede, annul, impair, or interfere with any existing vested rights, as provided for in Chapter 5, Procedures, provided they were lawfully established and remain in effect.

1.10 REVIEW AUTHORITIES

1.10.1 AUTHORITIES IDENTIFIED

The following review authorities have powers and responsibilities for administering this Ordinance, especially with regard to procedures related to development application review and decision:

- A. The Town Council;
- B. The Planning Board;
- C. The Board of Adjustment;
- D. The Technical Review Committee; and
- E. The Planning Director.

1.10.2 GENERALLY

A. ALL MEETINGS SHALL BE OPEN

1. All meetings of elected or appointed bodies under this Ordinance shall be open to the public in accordance with Section 143-318 of the North Carolina General Statutes (Meetings of Public Bodies) and shall be conducted in accordance with the procedures set forth in these regulations, the Town Code of Ordinances, adopted policy guidance, and rules of procedure adopted by the respective review authorities.

2. Wherever feasible, the agenda for the meeting shall be made available for public inspection prior to the meeting.

B. RULES OF PROCEDURE

All review authorities identified in this section shall adopt formal rules of procedure consistent with the level of decision-making delegated to that authority. Adopted rules of procedure shall be kept on file, made available on the Town's webpage or be available for public inspection, and shall be maintained by the designated staff to the review authority.

C. OATH OF OFFICE

All review authority members (including Town staff) who review and decide applications under this Ordinance shall be administered the oath of office prior to commencing their duties in accordance with Article 6, Section 7 of the North Carolina Constitution by a person authorized to administer the oath. The Town Clerk shall maintain a record of the oath's administration.

D. CONFLICT OF INTEREST

1. LEGISLATIVE AND ADMINISTRATIVE DECISIONS

- a. A review authority member shall not vote on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member in accordance with Section 160D-109 of the North Carolina General Statutes.
- b. A review authority member shall not vote on an application where the landowner or applicant is a person with whom the member has a close, familial, business, or other associational relationship.

2. QUASI-JUDICIAL DECISIONS

- a. A review authority member shall not participate in or vote on any quasi-judicial matter in a manner that would violate an affected persons' constitutional rights to an impartial decision maker.
- b. 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; an undisclosed ex-parte communication; a close familial, business, or other associational relationship with an affected person; or a direct, substantial, and readily identifiable financial impact on the member.

3. RECUSAL

- a. If a conflict of interest exists, then a review authority member shall recuse themselves from participating in and voting on an application.
- b. If an objection is raised to a member's participation and that member does not recuse himself or herself, then the remaining members shall, by majority vote, rule on the objection.

E. MINUTES AND RECORDS

1. Accurate minutes of each meeting shall be maintained by each review authority showing the vote of each member on each question, or if absent or failing to vote, indicating such fact.
2. Each review authority shall keep records of its examinations and official actions.
3. All minutes and records shall be filed in the office of the Town Clerk or other appropriate Town official for the public record.

F. REGULAR MEETINGS

1. All review authorities shall meet at regularly scheduled times and at such other times as determined by the Chairperson as provided for in the rules of procedure.
2. Special meetings may be called at any time by the Chairperson or by request of a majority of members of the review authority.

G. REMOVAL

1. Members of the Planning Board or Board of Adjustment may be removed by the Town Council at any time for:
 - a. Failure to attend two consecutive meetings;
 - b. Failure to attend 30 percent or more of the meetings within a 12-month period; or
 - c. Any good cause related to performance of duties.
2. For the purposes of this section, attendance at a meeting shall be defined as being present for at least 60 percent of the duration of the meeting.
3. Alternate members of the Planning Board or Board of Adjustment may be removed for repeated failure to attend or participate in meetings when requested to do so.
4. Moving outside the Town limits shall constitute resignation from the Planning Board or Board of Adjustment, effective upon the date a replacement board member is appointed.

H. STAFF TO BOARDS

1. The Planning Director or a designee shall serve as staff to the review authorities identified in this Ordinance.
2. The Town Attorney may provide legal and procedural assistance, when requested.

1.10.3 THE TOWN COUNCIL

The Town Council is the elected body of the Town of Elon, North Carolina.

A. POWERS AND DUTIES

The Town Council shall have the power to initiate, review, and decide applications for:

1. Annexation;
2. Conditional rezoning;
3. Development agreements;
4. Fee-in-lieu requests;
5. Planned developments;
6. Rezoning;
7. Special use permits;
8. Text amendments; and
9. Vested rights certificates.

B. OTHER POWERS AND DUTIES

The Town Council shall have the following other powers and duties:

1. To approve, by resolution, a schedule of fees governing:
 - a. Applications for permits and other development approval reviews under this Ordinance; and
 - b. Civil penalties for violations of this Ordinance.
2. To take any other action not delegated to other review authorities, as the Town Council may deem desirable and necessary to implement the provisions of this Ordinance.
3. To conduct any and all business in accordance with the Town Charter and North Carolina General Statutes; and
4. To amend the Comprehensive Plan and other adopted policy guidance as necessary.
5. To appoint or remove members of the Planning Board or Board of Adjustment who reside in the Town.

1.10.4 THE PLANNING BOARD

The Planning Board is hereby established in accordance with Section 160D-301 of the North Carolina General Statutes, and the following.

A. POWERS AND DUTIES

The Planning Board shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance:

1. APPLICATION REVIEWS

The Planning Board shall review and make recommendations on the following applications:

- a. Conditional rezoning;
- b. Development agreements;
- c. Planned developments;
- d. Rezoning; and
- e. Text amendments.

2. OTHER POWERS AND DUTIES

- a. To serve as the Board of Adjustment.
- b. To perform studies and surveys of the present conditions and probable future development of the Town and its environs, including but not limited to, studies and surveys of land uses, population, traffic, parking, annexation, and expansions of the extraterritorial jurisdiction.
- c. To formulate and recommend to the Town Council the adoption and amendment of the Comprehensive Plan and other plans as necessary.
- d. To initiate proposals for text amendments to the Land Management Ordinance based upon the findings and recommendations delivered in such studies and adopted plans.
- e. To determine whether specific proposed developments conform to the principles and requirements of the adopted comprehensive plan for growth and improvement of the Town.

B. COMPOSITION

- 1. The Planning Board shall consist of eight regular members and two alternates.
- 2. Six members shall reside within the corporate limits of Elon and one member shall reside in the extra-territorial planning jurisdiction (ETJ).
- 3. The Town Council shall appoint the regular members and one alternate from within the Elon corporate limits from a list of qualified applicants who have submitted a Planning Board application.
- 4. The Alamance County Board of Commissioners shall appoint two members and one alternate from within the ETJ following receipt of a recommendation from the Town Council.
- 5. The members from the extra-territorial planning jurisdiction shall have equal rights, privileges, and duties as the members from within the corporate limits.

C. TERMS

- 1. Member terms shall be in accordance with the review authority's rules of procedure.
- 2. Term limit requirements may be waived by the Town Council.

D. QUORUM

A quorum of five members shall be necessary to transact official business of the Planning Board.

E. DISTINCTION REQUIRED

In no instance shall the Planning Board undertake any official business as the Board of Adjustment without adjourning as the Planning Board beforehand.

1.10.5 THE BOARD OF ADJUSTMENT

The Board of Adjustment is hereby established in accordance with Section 160D-302 of the North Carolina General Statutes, and the following:

A. POWERS AND DUTIES

The Board of Adjustment shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance:

1. APPLICATION DECISIONS

The Board of Adjustment shall render final decisions regarding the following permit types:

- a. Appeals of administrative decisions;
- b. Reasonable accommodations; and
- c. Variances.

2. OTHER POWERS AND DUTIES

To exercise other powers and authority provided to it by the Town Council, this Ordinance, or State law.

B. COMPOSITION

1. The Board of Adjustment shall consist of eight regular members and two alternates.
2. Six members shall reside within the corporate limits of Elon and one member shall reside in the extra-territorial planning jurisdiction (ETJ).
3. The Town Council shall appoint the regular members and one alternate from within the Elon corporate limits from a list of qualified applicants who have submitted a Board of Adjustment application.
4. The Alamance County Board of Commissioners shall appoint two members and one alternate from within the ETJ following receipt of a recommendation from the Town Council.
5. The members from the extra-territorial planning jurisdiction shall have equal rights, privileges, and duties as the members from within the corporate limits.

C. TERMS

1. Member terms shall be in accordance with the review authority's rules of procedure.
2. Once a member has served two full consecutive terms, the member shall not serve on the Board of Adjustment again.
3. Term limit requirements may be waived by the Town Council.

D. QUORUM

A quorum of five members shall be necessary to transact the official business of the Board of Adjustment.

E. VOTING

1. The concurring vote of four-fifths of the Board of Adjustment members voting on a case shall be necessary to grant a variance.
2. A simple majority of the Board of Adjustment members present and voting on a case shall be required to decide an appeal.
3. Members who are recused from voting due to a conflict of interest shall not be counted towards a simple or super majority.

F. DISTINCTION REQUIRED

In no instance shall the Board of Adjustment undertake any official business as the Planning Board without adjourning as the Board of Adjustment beforehand.

1.10.6 THE TECHNICAL REVIEW COMMITTEE

The Technical Review Committee (TRC) is hereby established in accordance with Section 160D-306 of the North Carolina General Statutes and the following:

A. POWERS AND DUTIES

1. APPLICATION DECISIONS

The Technical Review Committee shall render final decisions regarding the following permit types:

- a. Limited subdivisions;
- b. Preliminary plats; and
- c. Transportation impact analyses.

2. APPLICATION REVIEWS

The Technical Review Committee shall review and provide a recommendation on the following:

- a. Concept plans associated with a conditional rezoning;
- b. Master plans associated with a planned development;
- c. Site plans associated with conditional rezonings, planned development districts, or special use permits.

3. OTHER POWERS AND DUTIES

To exercise other powers and authority provided to it by the Town Council, this Ordinance, or State law.

B. COMPOSITION

1. The Planning Director shall serve as the Chair of the Technical Review Committee and shall preside over committee meetings, prepare committee reports, and serve as liaison to the departments and agencies involved for clarification of issues and resolution of conflicts.
2. The Technical Review Committee shall be comprised of the following individuals or their designees: Town Manager, the Public Works Director, the Police Chief, the Fire Chief, the Town's staff or consulting engineer, and may also include representatives from NCDOT, County agencies, and utility providers.

C. MEETINGS

1. The Technical Review Committee shall establish a regular meeting schedule, though it may not meet if there are no items for consideration.
2. Technical Review Committee meetings are open to the public, though the opportunity to address the Committee during a meeting is at the sole discretion of the Chair.
3. The Planning Director may invite applicants to attend Technical Review Committee meetings, though applicant attendance is not required.

1.10.7 THE PLANNING DIRECTOR

A. POWERS AND DUTIES

The Planning Director shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance:

1. APPLICATION DECISIONS

The Planning Director shall render final decisions regarding the following permit types:

- a. Administrative adjustments;
- b. Determinations;
- c. Fence permits;
- d. Final plats;
- e. Floodplain development permits;
- f. Performance guarantee requests;
- g. Sign permits;
- h. Stormwater permits;
- i. Temporary use permits; and
- j. Zoning compliance permits.

2. APPLICATION RECOMMENDATIONS

The Planning Director shall review and provide a recommendation on the following applications:

- a. Annexation;
- b. Fee-in-lieu requests;
- c. Reasonable accommodations; and
- d. Vested rights certificates.

3. APPLICATION COMMENTS

The Planning Director shall review and provide comments and recommendations to other review authorities on the following applications:

- a. Conditional rezonings;
- b. Development agreements;
- c. Limited subdivisions;
- d. Planned developments;

- e. Rezoning;
- f. Special use permits; and
- g. Text amendments.

4. OTHER POWERS AND DUTIES

The Planning Director shall have the following other powers and duties:

- a. To serve as Zoning Administrator in accordance with State law;
- b. To serve as the Floodplain Administrator in accordance with these standards;
- c. To conduct pre-application conferences;
- d. To enforce the provisions of this Ordinance, including entering any building, structure, or premises, as provided by law, to perform any duty imposed by this Ordinance;
- e. To apply remedies for violations of this Ordinance in accordance with Section 5.4, Violations and Remedies;
- f. To maintain the Official Zoning Map and related materials;
- g. To process development applications and prepare staff reports as indicated in this Ordinance;
- h. To maintain public records pertaining to this Ordinance and to make those records available to members of the public upon request;
- i. To maintain rules of procedures for each review authority in this Ordinance;
- j. To provide technical assistance to review authorities, upon request; and
- k. To carry out any other powers and duties delegated by the Town Manager that are consistent with this Ordinance and State law.

1.11 SEVERABILITY

1.11.1 INVALIDATION

Should any section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect, impair, or invalidate the validity of the remaining parts of this Ordinance which can be given effect without the invalid provision.

1.11.2 PREJUDICIAL APPLICATION

Should any section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional in its application to a particular case, such decision shall not affect or prejudice its application to other cases.

1.11.3 LAWFUL PRESUMPTION

There shall be a conclusive presumption when a review authority authorizes regulatory action, that the review authority would not have authorized the action except in the belief that such action was lawful.

1.12 TRANSITIONAL PROVISIONS

The standards in this subsection address existing violations, nonconformities, and applications in process at the time this Ordinance is made effective.

1.12.1 PRIOR VIOLATIONS

- A. Violations of the previous ordinance shall continue to be violations under this Ordinance, unless the development complies with this Ordinance and is no longer considered to be in violation, or the ability to address the violation has lapsed in accordance with Section 5.4.8, Statute of Limitations.
- B. Violations of this Ordinance shall be subject to the penalties and enforcement provisions in Section 5.4, Violations and Remedies.

1.12.2 EXISTING NONCONFORMITIES

If any use, structure, lot, or sign, legally existed on *[inset the effective date of this Ordinance]* but does not fully comply with the standards of this Ordinance, the use, structure, lot, or sign, is considered

nonconforming under this Ordinance and shall comply with the requirements in Chapter 6, Nonconformities.

1.12.3 PRIOR APPLICATION APPROVALS

- A. Any development approvals granted before *[inset the effective date of this Ordinance]* shall remain valid until their expiration date.
- B. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired.
- C. If an approval expires or is revoked (e.g., for failure to comply with the terms and conditions of approval), any subsequent development of the site shall be applied for in accordance with the procedures and standards of this Ordinance.
- D. An applicant shall be deemed to have initiated an approved development upon the subsequent application for and diligent pursuit of other required Town, State, or federal permits or approvals.
- E. Timelines for the commencement or expiration of development in accordance with an approved application shall be suspended in the event of legal challenge.
- F. To the extent a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of in Chapter 6, Nonconformities.

1.12.4 PENDING APPLICATIONS

A. COMPLETE APPLICATIONS

Applications accepted as complete prior to *[inset the effective date of this Ordinance]* may be decided in accordance with either the regulations in affect at the time the application was determined complete or the regulations in this Ordinance, as requested by the applicant in accordance with Section 5.3.8, Permit Choice.

B. IF APPROVED

To the extent such a complete application is approved and proposes development that does not comply with this Ordinance, the development, although permitted, shall be nonconforming and subject to the provisions of in Chapter 6, Nonconformities.

C. FILED, BUT NOT COMPLETE APPLICATIONS

Applications that have been filed prior to *[inset the effective date of this Ordinance]* but not determined to be complete by the Planning Director as of that date shall be reviewed and decided in accordance with this Ordinance.

1.12.5 PRE-EXISTING CONDITIONAL USE PERMIT

Existing conditional use permits approved prior to *[inset the effective date of this Ordinance]* are hereby converted to special use permits and shall continue to apply as approved. In the event an applicant seeks to revise development subject to a conditional use permit, all changes shall be considered in accordance with Section 5.2.21, Special Use Permit.

1.12.6 ESTABLISHED USES NOW REQUIRING A SPECIAL USE PERMIT

- A. If a use was a lawfully established permitted use before *(insert the effective date of this Ordinance)* and is subsequently made a special use in Table 4.1, Principal Use Table, the use shall be considered by the Town as a lawfully established nonconforming use.
- B. Any modifications to the use or the site after *(insert the effective date of this Ordinance)*, shall require approval of a special use permit in accordance with Section 5.2.21, Special Use Permit.