

CHAPTER 15: ADMINISTRATION

Section	Page
15.1 Purpose.....	15-2
15.2 Administrator.....	15-2
15.3 Board of Adjustment.....	15-4
15.4 Planning Board.....	15-7
15.5 Town Board of Commissioners.....	15-11
15.6 Enforcement.....	15-11

CHAPTER 15: ADMINISTRATION

Section 15.1 Purpose

The purpose of this Chapter is to set forth the powers and duties of the Administrator, Board of Adjustment, Planning Board, and Town Board of Commissioners as they relate to this Ordinance. This Chapter also establishes the penalties for violation of the UDO.

Section 15.1 Administrator

- A. The Town Manager shall appoint a Unified Development Ordinance Administrator to enforce the provisions of this Ordinance. The assistance of such other persons may be provided as the Town Board or Town Manager may direct.
- B. Throughout this Ordinance, the Administrator may be referred to as “Administrator”, “Zoning Administrator”, “Subdivision Administrator”, “Floodplain Administrator”, or “Planning Director”.
- C. The various provisions of this Unified Development Ordinance shall be administered by the Administrator and designated Planning Staff. The Administrator may appoint any member of the Planning Staff to assume his duties. It shall be the duty of the Administrator to carry out and enforce this Ordinance, remedy violations of this Ordinance, follow the development approval processes of this Ordinance, and issue permits in compliance with this Ordinance.
- D. The Administrator shall maintain a record of all Zoning Permits, development approvals, Special Use Permits, Variances, Text Amendments, Map Amendments (standards and conditional rezonings) on file at his office, and copies shall be made available on request to interested parties.

15.1.1 Power & Duties of the Administrator

A. Administrative Variances

Administrative Variances may be issued for encroachments of a principal building into any required yard up to a maximum of 10 percent of the applicable required yard setback provided that:

- 1. The request involves only one (1) encroachment into one (1) required yard per lot;
- 2. The encroachment is a result of a construction error by the property owner or a person acting on his behalf;
- 3. The encroachment cannot be corrected without substantial hardship and expense to the property owner;
- 4. The encroachment, if approved, will not substantially interfere with the convenient and enjoyable use of adjacent properties and will not pose any substantial danger to the public health and safety.

B. Pre-Application Meeting with Sketch Plan

Any property owner or applicant to meet with Town Staff prior to making official application with the Town may schedule a pre-application meeting. Such meeting shall be scheduled only after a sketch plan has been submitted to the Administrator. Sketch Plan review provided by, or under the direction of, the Administrator or any other Town Staff is a courtesy and shall not constitute vested rights or plan approval.

1. This step is not applicable to Engineering Drawings or Final Plats for Major Subdivisions that have approved Preliminary Plats. The process for these items shall start at Step 2.
2. The applicant shall schedule a pre-application meeting with the Administrator. The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of Angier and does not confer upon the applicant any development rights. The applicant shall bring a Sketch Plan of the proposed development to the meeting that meets the requirements set forth in Chapter 12.
3. For Major Subdivision Preliminary Plats, the developer shall also provide an Existing Features Plan and participate in an on-site walkabout with the Administrator.
 - a. An Existing Features Plan analyzing each site's special features is required for all developments, as it forms the basis of the design process for building locations, lot lines, street alignments, and conservation areas.
 - b. After an Existing Features Plan has been prepared in accordance with Chapter 12, the Administrator shall schedule a mutually convenient date to walk the property with the applicant and his/her site designer. The purpose of this visit is to familiarize the Administrator with the property's special features, and to provide him an informal opportunity to offer guidance to the applicant regarding the potential house locations, street alignments, and the tentative location of conservation areas. Following the walkabout, the applicant and the Administrator shall discuss how the severely constraining elements and the significant features, which were identified in the Existing Features Plan, could be applied to the design and layout of the proposed subdivision.
4. The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed.
5. One (1) copy of the Sketch Plan and the Existing Features Plan (if applicable) shall be retained as a part of the record of the Administrator with one (1) copy being returned to the developer or his authorized agent along with any comments made by the Administrator concerning the proposed development.

C. Administrative Approval

The Administrator shall have the authority to approve the following, following the procedures outlined herein:

1. If a Site Plan is found to meet all of the applicable regulations of this Ordinance, then the Administrator shall issue a Land Use Permit. The developer may then obtain a building permit from the Building Inspections Department.
2. If a Final Plat for a Minor Subdivision is found to meet all of the applicable regulations of this Ordinance, then the plat shall be approved. The developer shall record the plat within 30 days of said approval. If the developer fails to record the plat within 30 days of approval, said approval shall be null and void.
3. If a Preliminary Plat for a Major Subdivision is found to meet all of the applicable regulations of this Ordinance, then the Administrator shall approve the plat and the developer may proceed with completion of Engineering Drawings.

CHAPTER 15: ADMINISTRATION

4. If Engineering Drawings for a Major Subdivision are found to meet all of the applicable regulations of this Ordinance and all other applicable local, State, and Federal regulations, then the Administrator and Town Engineer shall approve the Engineering Drawings, and the developer may proceed with the installation or guarantee of the installation of improvements and infrastructure.
 5. If a Final Plat for all or a portion of a Major Subdivision is found to match the approved Preliminary Plat and meet all of the applicable regulations of this Ordinance and all improvements have either been installed or guaranteed, then the plat shall be approved. The developer shall record the plat within 30 days of said approval. If the developer fails to record the plat within 30 days of approval, said approval shall be null and void.
- D. Final Building & Zoning Inspections for Certificate of Occupancy (Site Plan Only)
- D. An as-built survey shall be submitted by the developer to the Administrator and Town Engineer upon completion of the building foundation to ensure that setbacks and building orientation match the approved site plan. If the survey shows that the placement of the building is incorrect, then the Administrator shall issue a stop-work order and all construction shall be halted until the problem is remedied.
 - E. For all developments, excluding single-family and two-family residential uses, prior the issuance of a Certificate of Occupancy by the building inspector, the Administrator or his designee and the Town Engineer shall conduct a final zoning inspection to ensure that the approved plan has been followed and all required improvements have been installed to Town standards.

Section 15.3 Board of Adjustment

15.3.1 Establishment of the Board of Adjustment

- A. The Town of Angier Zoning Board of Adjustment is hereby established. The word "Board" when used in this Section shall be construed to mean the Zoning Board of Adjustment. Membership on the Board shall include the seven (7) members. Five (5) of the members shall consist of the Angier Town Board of Commissioners and two (2) shall be appointed by the Harnett County Board of Commissioners to represent the extraterritorial jurisdiction. In the event the Board of County Commissioners fails to make their appointments within 90 days after receipt of a resolution from the Angier Town Board, requesting that such appointments be made, the Town Board may thereupon make such appointments. The two (2) members appointed by the Board of County Commissioners shall be residents of the territory surrounding the corporate limits of the Town of Angier within the extraterritorial area.
- B. All meetings of the Board shall be held at a regular place and shall be open to the public. The Board shall keep minutes of its proceedings in a book maintained for that purpose only, showing the vote of each member upon each question, or if absent or failing to vote, an indication of such fact; and final disposition of appeals shall be by recorded resolution indicating the reasons of the Board therefore, all of which shall be a public record. No final action shall be taken on any matter unless a quorum is present.

15.3.2 Powers & Duties

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

15.3.2.1 Appeal of the Administrator

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by Administration in the enforcement of this Ordinance.

- A. An appeal from the decision of the Administrator may be taken to the Board of Adjustment by any person aggrieved or any officer, department, board or bureau of the town affected by such decision. Such appeal shall be taken within a reasonable time as provided by the rule of the Board by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The office to whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- B. An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrator certifies to the Board after the notice of appeal shall have been filed with him by reasons of fact stated in the certificate, a stay would in his opinion 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 this Ordinance. In such case proceedings shall not be stayed except by a restraining order, which may be granted by the Board or by a court of record on application of notice to the Administrator and on due cause shown.

15.3.2.2 Variances

To authorize upon appeal in specific cases such variances from the terms of the Ordinance as will not be contrary to the public interest where, owing to special conditions a literal enforcement of the provisions of the Ordinance will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. The existence of a nonconforming use of neighboring land, buildings, or structures in the same district or of permitted or nonconforming uses in either districts shall not constitute a reason for the requested variances. Such variances may be granted in such individual case of unnecessary hardship only upon findings by the Board of Adjustment after a public hearing that the following conditions exist:

- A. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.
- B. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.
- C. A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
- D. The requested variance will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood or to the general welfare.

- E. The special circumstances are not the result of the actions of the applicant.
- F. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

15.3.2.3 Special Use Permits

The development and execution of this Ordinance is based on the division of the Town of Anger into districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are some land uses which are basically in keeping with the intent and purposes of the district where special, but which may have an impact on the area around them which can only be determined by review of the specific proposal. Special Uses may be established, under certain conditions and with the proper controls, in such a manner as to minimize any adverse effects. In order to ensure that these uses, in their proposed locations, would be compatible with the surrounding development and in keeping with the purposes of the district in which they are proposed, their establishment shall not be a matter of right, but shall be only be permitted after review and approval of a Special Use Permit preceded by an Evidentiary Hearing. The Board of Adjustment shall find that the following conditions exist prior to granting approval of a Special Use Permit application:

- A. The requested use will not impair the integrity or character of the surrounding or adjoining districts;
- B. The requested use will not be detrimental to the health, morals, or welfare;
- C. Adequate utilities, access streets, drainage, sanitation and/or other necessary facilities have been or are being provided;
- D. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
- E. That the Special Use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Board of Adjustment.

15.3.2.4 Right of Appeal

If a Land Use Permit is denied, then the applicant may appeal the action of the Administrator to the Board of Adjustment; and that from the decision of the Board of Adjustment, recourse shall be had to courts as provided by law. Such appeal shall be made within 30 days of such permit denial.

15.3.3 Hearing Process

- A. Appeals from the enforcement and interpretation of this Ordinance and requests for variances, shall be filed with the Administrator specifying the grounds thereof. The Administrator shall transmit to the Board of Adjustment all applications and records pertaining to such appeals and variances.

- B. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide it within a reasonable time.
- C. The concurring vote of four-fifths (4/5) of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Administrator or to decide in favor of the applicant any matter upon which it is required to pass under any Ordinance, or to grant a variance from the provisions of this Ordinance.
- D. Every decision of the Board shall be subject to review by the Harnett County Superior Court by proceedings in the nature of certiorari. Any appeal to the Superior Court shall be taken within 30 days after the decision of the Board is filed in the office of the Zoning Officer, or after a written copy thereof is delivered to the appellant by personal service or registered mail, whichever is later.

15.3.4 Administration of Oaths

The Chairman or any member temporarily acting as chairman is authorized to administer oaths to witnesses in any matter coming before the Board. All testimony before the Board must be under oath and recorded.

15.3.5 Fees for Variances or Appeals

The Board of Commissioners shall set a fee, payable to the Town of Angier, North Carolina, to cover the necessary administrative costs and advertising of each application for a variance or appeal. The set fee shall be posted in the Town Clerk's office.

15.3.6 Stay of Proceedings

- A. An appeal stays all proceedings in furtherance of the action appealed from, with the following exceptions:
 - 1. The Administrator certifies to the zoning Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property; or
 - 2. The Administrator certifies to the zoning Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, seriously interfere with enforcement of the Ordinance because the violation charged is transitory in nature.
- B. In either case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the zoning board of adjustment or by a court of record on application, on notice to the Administrator, and on due cause shown.

Section 15.4 Planning Board

15.6.1 Authority and Duties

The Planning Board shall have the powers and duties given it by the North Carolina General Statutes and the Town Board including the power to:

CHAPTER 15: ADMINISTRATION

- A. Make studies and recommend to the Town Board plans, goals, and objectives relating to the growth, development, and redevelopment of the town and the surrounding extraterritorial planning area;
- B. Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
- C. Exercise any functions in the administration and enforcement of various means for carrying out plans that the Town Board may direct, including making recommendations on Text Amendments and Map Amendments (Standard and Conditional Zoning requests).
- D. Conduct such public hearings as may be required to gather information necessary for the drafting, establishment and maintenance of a development plan for the Town;
- E. Promote public interest in and an understanding of its recommendations.
- F. Building Design Alternatives
For Building Design Alternatives, as provided for in Chapter 5, the Planning Board may approve alternate design plans, building materials or construction techniques when unreasonable or impractical situations would result from the application of architectural design standards. Such situations may result from unique site conditions, innovative design applications, and/or unified development design.
 - 1. Review & Approval
The Planning Board shall make a determination on the request, as outlined in Chapter 5.
 - 2. Additional Approvals as Required
Approval of Building Design Alternatives does not constitute final approval of the development plan. Plans reviewed by the Planning Board may be subject to additional Administrative approvals depending on the size and type of development that is proposed.
- G. Zoning Map Amendment (standard rezoning)
 - 1. Review & Approval
Following a complete review by the Planning Staff, the Administrator shall schedule the application for review by the Planning Board at the next regularly scheduled meeting.
 - a. The Planning Board shall have up to 30 days from the date of referral by the Administrator to recommend approval or denial of the request to the Town Board of Commissioners.
 - b. For all Map Amendment (rezoning) requests, the Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area.
- H. Conditional Zoning Map Amendment (conditional rezoning)
 - 2. Review & Approval
Following a complete review by the Planning Staff, the Administrator shall schedule the application for review by the Planning Board at the next regularly scheduled meeting.

- a. The Planning Board shall have up to 30 days from the date of referral by the Administrator to recommend approval or denial of the request to the Town Board of Commissioners.
- b. For Conditional Zoning Map Amendment requests, the Planning Board shall include with its recommendation a written statement regarding the reasonableness of the request.

I. Landscaping Design Alternatives

For Landscaping Design Alternatives, as provided for in Chapter 7, the Planning Board may approve alternate design plans, landscaping materials, or techniques when unreasonable or impractical situations would result from the application of landscaping design standards. Such situations may result from unique site conditions, innovative design applications, and/or unified development design.

1. Review & Approval

The Planning Board shall make a determination on the request, as outlined in Chapter 7.

2. Additional Approvals as Required

Approval of Landscaping Design Alternatives does not constitute final approval of the development plan. Plans reviewed by the Planning Board may be subject to additional Administrative approvals depending on the size and type of development that is proposed.

15.6.2 Membership

- A. There shall be a Planning Board consisting of seven (7) members. Four members, appointed by the Town Board, shall reside within the Town limits. Three members, appointed by the Harnett County Board of Commissioners, shall reside within that portion of the Town's extraterritorial jurisdiction (ETJ) that lies within Harnett County. If, despite good faith efforts, a resident of the ETJ within the county cannot be found to fill the seat reserved for the residents of such area, then the County Board of Commissioners may appoint any other resident of the County (including residents of the Town of Angier) to fill such seat. If the County Board of Commissioners fails to make an appointment within 90 days after receiving a resolution from the Town Board requesting that an appointment be made, the Town Board may make the appointment.
- B. Planning Board members shall be appointed for two-year staggered terms but members may continue to serve until their successors have been appointed. Terms shall expire on December 31.
- C. Members may be appointed no more than three (3) successive terms.
- D. Faithful attendance at the meetings of the Planning Board is considered a prerequisite for the maintenance of membership on the Planning Board. Planning Board members may be removed by the Town Board at any time for failure to attend three (3) consecutive regularly scheduled meetings or for failure to attend four or more of the meetings within any 12-month period or for any other good cause related to performance of duties. In the absence of regular Planning Board members, the Town Board may appoint alternates as it deems necessary.

CHAPTER 15: ADMINISTRATION

- E. All members may participate in and vote on all issues before the Planning Board, regardless of whether the issue affects property within the town or within the ETJ.
- F. Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term by the Town Board for in-town members of the Planning Board and by the County Commission for the ETJ members of the Planning Board.

15.6.3 Meetings, Hearings, and Procedures

- A. The Planning Board shall elect a chair and may create and fill such other offices as it may deem necessary. The term of officers shall be one (1) year or until successors shall have been elected and installed, with eligibility for reelection. Vacancies in officers' positions prior to expiration of terms shall be filled for the period of the unexpired term by the Planning Board. The Planning Board shall adopt rules of transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings and recommendations, which record shall be a public record.
- B. The Planning Board shall hold at least one meeting monthly unless there is no business to be discussed or acted upon, and all of its meetings shall be in accordance with G.S. 143-318.9 et. seq., so as to process appeals and permit applications as expeditiously as possible. A quorum shall consist of a majority of the members of the Planning Board (4) for the purpose of taking any official action. All members of the Planning Board shall have voting power on all matters of business. However, any member of the Planning Board who is a part at interest to matters under consideration by the Planning Board shall declare such interest prior to a vote of the Planning Board on the question, and shall abstain from voting on the question. This provision shall not prohibit such members from participation in discussions of the Planning Board on such matters prior to a vote.
- C. The Planning Board shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.
- D. Minutes shall be kept of all board proceedings.
- E. All board members shall be open to the public, and whenever feasible, the agenda for each board meeting shall be made available in advance of the meeting.
- F. The Planning Board is charged with the responsibility to carry out its duties for the purpose of promoting the health, safety, morals, and the general welfare of the community. The Planning Board shall review and make recommendations to the Board of Commissioners; however, in the absence of a recommendation from the Planning Board after the expiration of 30 days from the date on which the request has been submitted in writing to the Planning Board, the Town Board of Commissioners may take final action without receiving the recommendation, or may extend the time within which the Planning Board may report.

Section 15.5 Town Board of Commissioners

The Town Board of Commissioners shall hold the following powers and duties related to this Ordinance:

- A. To review, hold public hearings, and make decisions for Vested Rights requests, Text Amendments, and Map Amendments (Standard and Conditional Zoning requests).
- B. To make decisions on all issues related to the Unified Development Ordinance, Zoning Map, Comprehensive Plan, and other land use plans which may be adopted from time to time.
- C. Upon request of the applicant, the Town Board of Commissioners may approve an extended vesting period of between two (2) years and five (5) years from the date of approval in accordance with the Vested Rights requirements of Chapter 1, and provided that reasonable explanation is given as to why such extension is necessary.

Section 15.6 Enforcement

15.6.1 Violations

If the Administrator shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of such violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violations of its provisions.

- A. Nothing in this Ordinance, nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violation of the terms of this Ordinance shall subject the violator to the penalties and remedies, either criminal or civil or both.
- B. In case any structure or use is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this Ordinance as herein provided, an action for injunction or other appropriate action to prevent such violation may be instituted by the Administrator, the Harnett County Building Inspector, any other appropriate Town authority, or any person who may be damaged by such violation.

15.6.2 Penalties

- A. The Administrator will notify any person, firm, or corporation of a suspected violation of this Ordinance in person or in writing. Any person, firm, or corporation who violates the provisions of this Ordinance shall upon conviction be guilty of a misdemeanor and shall be fined not exceeding 500 dollars (\$500.00) and/or imprisoned not exceeding 30 days. Each day of violation shall be considered a separate offense.

CHAPTER 15: ADMINISTRATION

- B. In addition to the other remedies cited in this Ordinance for the enforcement of its provisions, and pursuant to NCGS 160A-175, the regulations and standards in this Ordinance may be enforced through the issuance of civil penalties by the Administrator.
- C. Subsequent citations for the same violation may be issued by the Administrator if the offender does not pay the citation (except as otherwise provided in a Warning Situation) after it has been issued unless the offender has sought an appeal to the actions of the Administrator through the Board of Adjustment. Once the 10 day warning period has expired, each day which the violation continues shall subject the violator to additional citations to be issued by the Administrator.

D. The following penalties are hereby established:

Citation	Civil Penalty
Warning	Correct Violation within 10 days
First	\$50.00
Second	\$100.00
Third and Subsequent	\$200.00

- E. If the offender fails to pay the civil penalties within five (5) days after having been cited, the Town may recover the penalties in a civil action in the nature of debt.

15.6.3 Remedy

- A. In any case where a building is created, constructed, reconstructed, altered, repaired, converted, or maintained, or any building or land is used in violation of this Ordinance, the Administrator, or any other appropriate town authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceeding to prevent such violations.
- B. The Administrator or his designee may remove and destroy or otherwise dispose of any sign placed on public property or within any right-of-way of any public or private street.

15.6.4 Stop Work Order Issuance and Revocation of Permits

- A. Whenever a building, structure or part thereof is being constructed, demolished, renovated, altered, or repaired in substantial violation of any applicable provision of this Ordinance, the Administrator may order the specific part of the work that is in violation, or would be when the work is completed, to be immediately stopped. The stop work order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation and the action(s) necessary to lawfully resume work.
- B. The Administrator may revoke any permit by written notification to the permit holder when violations of this Ordinance have occurred. Permits may be revoked when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or plan, there has been a failure to comply with the requirements of this Ordinance, or a permit has been mistakenly issued in violation of this Ordinance.