

CHAPTER 2: REVIEW AND DECISION-MAKING BODIES

2.1 SUMMARY OF ORDINANCE ADMINISTRATION AND REVIEW ROLES

- 2.1.1 Ordinance Administration and review bodies
- 2.1.2 Summary Table of Administration and Review Roles
- 2.1.3 Review by Others
- 2.1.4 Membership and Procedures

2.2 TOWN COUNCIL

- 2.2.1 Review and Decision-Making Responsibilities

2.3 PLANNING AND ZONING BOARD

- 2.3.1 Review Responsibilities
- 2.3.2 Other Powers and Duties

2.4 ZONING BOARD OF ADJUSTMENT

- 2.4.1 Review and Decision-Making Responsibilities
- 2.4.2 Other Powers and Duties

2.5 HISTORIC PRESERVATION COMMISSION

- 2.5.1 Review and Decision-Making Responsibilities
- 2.5.2 Other Powers and Duties

2.6 PARKS, RECREATION, AND CULTURAL RESOURCES ADVISORY BOARD

- 2.6.1 Review and Decision-Making Responsibilities
- 2.6.2 Other Powers and Duties

2.7 PUBLIC ART ADVISORY BOARD

- 2.7.1 Review and Decision-Making Responsibilities
- 2.7.2 Other Powers and Duties

2.8 STAFF DEPARTMENTS

- 2.8.1 Review and Decision-Making Responsibilities
- 2.8.2 Development Review Committee

Chapter 2: REVIEW AND DECISION-MAKING BODIES**2.1 SUMMARY OF ORDINANCE ADMINISTRATION AND REVIEW ROLES****2.1.1 Ordinance Administration and Review Bodies**

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

- (A) Town Council;
- (B) Planning and Zoning Board;
- (C) Zoning Board of Adjustment;
- (D) Historic Preservation Commission;
- (E) Parks, Recreation, and Cultural Resources Advisory Board;
- (F) Public Art Advisory Board; and
- (G) Staff departments.

Information regarding membership and operating procedures for each of these entities may be obtained from the Town Code of Ordinances.

2.1.2 Summary Table of Administration and Review Roles

Table 2.1-1 summarizes the review and decision-making responsibilities of the entities that have specific roles in the administration of the procedures set forth in Chapter 3 and Chapter 4. The notes referenced in the last column are set forth at the end of the table. Other duties and responsibilities of the entities are set forth in the following sections.

2.1.3 Review by Others

Even though not referenced in Table 2.1-1, other boards, commissions, and/or committees may be asked to review some applications, including, but not limited to: rezonings, site plans, subdivisions, and planned development master land use plans.

TABLE 2.1-1: SUMMARY OF ORDINANCE ADMINISTRATION AND REVIEW ROLES								
<i>NOTE: This table summarizes the general review and decision-making responsibilities for the procedures contained in Chapter 3.</i>								
Exceptions to these general rules may apply; see Chapter 3 for complete details on each procedure.								
Review = Responsible for Review and/or Recommendation Hearing = Public or Quasi-Judicial Hearing Required								
Decision = Responsible for Final Decision to Approve or Deny Appeal = Authority to Hear and Decide Appeals								
Procedure	Section	Town Council	Planning and Zoning Board	Zoning Board of Adjustment	PRCR Advisory Board	HPC	Staff Departments	Notes
Amendment to the Comprehensive Plan (Cosmetic)	3.2.1	Decision	Review	-	Review	-	Review/ Decision	[1]
Amendment to the Comprehensive Plan (Substantive)	3.2.2	Hearing/ Decision	Hearing/ Review	-	Review	-	Review	[1]
Amendment to LDO Text	3.3	Hearing/ Decision	Review	-	-	-	Review	
Rezoning	3.4	Hearing/ Decision	Hearing/ Review	-	Review	-	Review	[5][8][10]
Accessory Use Permit	3.5	-	-	Appeal	-	-	Review/ Decision	
Permitted Use	3.6	-	-	-	-	-	Review	
Temporary Use	3.7	-	-	Appeal	-	-	Review/ Decision	
Special Use	3.8	Hearing/ Decision (some)	-	Hearing/ Decision (some)	-	-	Review	
Subdivision Plan	3.9	Decision (some)/ Appeal		-	Review	-	Review/ Decision (some)	[2][3][4][5]
Site Plan	3.9	Decision (some)/ Appeal		Decision (some)	-	-	Review/ Decision	[6]
Minor Alteration	3.10	-	-	-	-	-	Review/ Decision	
Designation of Historic Landmark	3.27	Hearing/ Decision	-	-	-	Hearing/ Review	Review	
Designation of Historic District	3.27	Hearing/ Decision	Hearing/ Review	-	-	Review	Review	
Certificate of Appropriateness - Minor Works	3.27	-	-	Appeal	-	-	Review/ Decision	[13]
Certificate of Appropriateness - Major Works	3.27	-	-	Appeal	-	Hearing/ Decision	Review	[13] [14]

TABLE 2.1-1: SUMMARY OF ORDINANCE ADMINISTRATION AND REVIEW ROLES								
NOTE: This table summarizes the general review and decision-making responsibilities for the procedures contained in Chapter 3.								
Exceptions to these general rules may apply; see Chapter 3 for complete details on each procedure.								
Review = Responsible for Review and/or Recommendation Hearing = Public or Quasi-Judicial Hearing Required								
Decision = Responsible for Final Decision to Approve or Deny Appeal = Authority to Hear and Decide Appeals								
Procedure	Section	Town Council	Planning and Zoning Board	Zoning Board of Adjustment	PRCR Advisory Board	HPC	Staff Departments	Notes
Certificate of Appropriateness - Demolition of Historic Structures	3.27	-	-	Appeal	-	Hearing/ Decision	Review	[13] [14]
Development in Flood Hazard Area	3.12	Appeal	-	-	-	-	Review/ Decision	
Grading Permit	3.13	Appeal	-	-	-	-	Review/ Decision	
Building Permit	3.14	Appeal	-	-	-	-	Review/ Decision	[9]
Certificate of Occupancy	3.15	Appeal	-	-	-	-	Review/ Decision	
Sign Permit	3.16	-	-	Appeal	-	-	Review/ Decision	
Vested Rights Certificate	3.17	Hearing/ Decision	-	-	-	-	Review	
Minor Modification	3.19	Hearing/ Decision (some)	-	Appeal (some)	-	-	Review/ Decision (some)	
Variance	3.20	-	-	Hearing/ Decision	-	-	Review	[13]
Appeals from decisions of an administrative official, including fines and penalties	3.21	Hearing/ Decision (some)	-	Hearing/ Decision	-	-	Review	[11] [13]
Reasonable Accommodation	3.25			Hearing/ Decision		-	Review	[13]
Zoning Compliance Permit	3.26			Appeal		-	Review/ Decision	[13]
Tree Clearing Certificate	3.22	-	-	Appeal	-	-	Review/ Decision	

TABLE 2.1-1: SUMMARY OF ORDINANCE ADMINISTRATION AND REVIEW ROLES								
NOTE: This table summarizes the general review and decision-making responsibilities for the procedures contained in Chapter 3.								
Exceptions to these general rules may apply; see Chapter 3 for complete details on each procedure.								
Review = Responsible for Review and/or Recommendation Hearing = Public or Quasi-Judicial Hearing Required								
Decision = Responsible for Final Decision to Approve or Deny Appeal = Authority to Hear and Decide Appeals								
Procedure	Section	Town Council	Planning and Zoning Board	Zoning Board of Adjustment	PRCR Advisory Board	HPC	Staff Departments	Notes
Adequate Public Facilities Planning and Development for Roads	3.23	Appeal	-	-	-	-	-	-
Transportation Development Fees	7.11	Hearing/ Decision; Appeal	-	-	-	-	-	[7]
Mixed Use Center Sketch Plan	4.4.2	Decision	Review	-	-	-	Review/ Decision	[12]

NOTES to Table 2.1-1:	
[1]	The Parks, Recreation, and Cultural Resources Advisory Board reviews only those proposed amendments that involve the parks/recreation element of the Comprehensive Plan.
[2]	Both the Town Council and the Planning Director have final decision-making authority on subdivision plans; see Section 3.9.
[3]	The Town Council hears appeals of decisions of the Planning Director regarding subdivision plans that are administratively approved by staff; see Section 3.9.
[4]	The Town Council hears appeals of decisions of the Planning Director regarding applications for changes to approved subdivision plans; see Section 3.9.
[5]	The Parks, Recreation, and Cultural Resources Advisory Board's review of subdivision plans is limited to proposed dedications of land or fees-in-lieu of dedication.
[6]	The Town Council hears appeals of decisions of the Planning Director regarding initial site plan applications that are approved by staff, and also requests for changes to approved site plans; see Section 3.9.
[7]	The Town Council makes the final decision on requests for individual assessments and hears appeals of assessments.
[8]	Testimony during the public hearing for a rezoning before the Planning and Zoning Board is limited to aspects of the rezoning which have changed since the public hearing before the Town Council.
[9]	Appeal of Building Permit related issues goes to the North Carolina Building Code Council.
[10]	The Parks, Recreation, and Cultural Resources Advisory Board reviews the recreation land dedication proposals associated with PDD rezonings.
[11]	The Town Council hears appeals related to development within the Flood Hazard Area and Grading Permits.
[12]	Mixed Use Center sketch plans may be reviewed by staff as defined in section 4.4.2.
[13]	Superior Court hears appeals of Zoning Board of Adjustment decisions.
[14]	Zoning Board of Adjustment review is in the nature of certiorari.

2.1.4 Membership and Procedures

Detailed information on membership criteria and review body procedures for each of the review bodies is located within Chapter 2 of the Town Code of Ordinances.

(Ord. No. 04-007, 7-15-04; Ord. No. 04-011, 9-9-04; Ord. No. 06-009, 4-27-06; Ord. No. 2011-LDO-01, 1-11-11; Ord. No. 12-LDO-01, 2-23-12; Ord. No. 2012-LDO-03, 5-10-12; Ord. No. 2012-LDO-04, 5-24-12; Ord. No. 2012-LDO-06, 8-9-12; Ord. No. 2013-LDO-02, 6-13-13; Ord. No. 2013-LDO-04, 9-26-13; Ord. No. 2014-LDO-02, 6-26-14)

2.2 TOWN COUNCIL

2.2.1 Review and Decision-Making Responsibilities

Without limiting any authority granted to the Town Council by State law or by other ordinances of the Town, the Town Council shall, with respect to this Ordinance, have the powers and duties set forth in Table 2.1-1, to be carried out in accordance with the terms of this Ordinance.

2.3 PLANNING AND ZONING BOARD

2.3.1 Review Responsibilities

The Planning and Zoning Board shall have the review responsibilities set forth in Table 2.1-1, to be carried out in accordance with the terms of this Ordinance.

2.3.2 Other Powers and Duties

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

- (A) 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, economic base, school needs, park and recreation needs, traffic, parking, and redevelopment needs;
- (B) To formulate and recommend to the Town Council the adoption or amendment of a Comprehensive Plan and other plans for the Town and its environs for the purpose of achieving the coordinated and harmonious development of the Town, in accordance with present and future needs;
- (C) To review the terms of this Ordinance from time to time, as it deems appropriate, and to recommend to the Town Council any changes that the Board considers necessary to properly regulate the development and use of land, buildings, and structures;
- (D) Such additional powers and duties as may be set forth for the Planning and Zoning Board elsewhere in this Ordinance and other ordinances of the Town.

2.4 ZONING BOARD OF ADJUSTMENT

2.4.1 Review and Decision-Making Responsibilities

The Zoning Board of Adjustment shall have the review and decision-making responsibilities set forth in Table 2.1-1, to be carried out in accordance with the terms of this Ordinance.

2.4.2 Other Powers and Duties

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

- (A) To subpoena witnesses and compel production of evidence pursuant to the provisions of G.S. 160A-388(g); and
- (B) Such additional powers and duties as may be set forth for the Zoning Board of Adjustment elsewhere in this Ordinance and other ordinances of the Town.

(Ord. No. 2013-LDO-04, 9-26-13)

2.5 HISTORIC PRESERVATION COMMISSION**2.5.1 Review and Decision-Making Responsibilities**

The Historic Preservation Commission shall have the review and decision-making responsibilities set forth in Table 2.1-1, to be carried out in accordance with the terms of this Ordinance, G.S. Chapter 160A, Article 19, Part 3C, and the authority granted in Session Law 2007-66, House Bill 827 ratified June 7, 2007 by the General Assembly of the State of North Carolina.

2.5.2 Other Powers and Duties

The Historic Preservation Commission shall have the following additional powers and duties within the town's zoning jurisdiction, to be carried out in accordance with the terms of this Ordinance and G.S. Chapter 160A, Article 19, Part 3C:

- (A) To undertake an inventory of properties of historical, pre-historical, architectural, and/or cultural significance.
- (B) To recommend to the Town Council, individual buildings, structures, sites, areas, or objects to be designated by ordinance as "historic landmarks," and areas to be designated by ordinance as "historic districts."
- (C) To recommend to the Town Council that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a historic landmark, be revoked or removed for cause.
- (D) To review and act upon proposals for alteration or demolition of designated landmarks; for alteration, demolition, or new construction within historic districts.
- (E) To cooperate with state, federal and other local governments in pursuing the purposes of this Section 2.5. The Town Council, or the Historic Preservation Commission when authorized by the Town Council, may contract with the State, or the United States of America, or any agency of either, or with any other organization, provided the terms are not inconsistent with state or federal law.
- (F) To review National Register nominations for properties in the Town's zoning jurisdiction and provide a reasonable opportunity for public comment; and then submit to the State Historic Preservation Officer comments as to whether or not, in the commission's opinion, the property or district meets the National Register of Historic Places criteria.

- (G) To prepare and recommend the official adoption of a historic preservation element as part of the town's comprehensive plan at the request of the Town Council.
- (H) To enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof.
- (I) To conduct educational programs with respect to historic properties and districts.
- (J) To negotiate at any time with the owner of a building, structure, site, area or object regarding its preservation when such action is reasonably necessary and appropriate.
- (K) To prepare and adopt principles and guidelines for altering, restoring, moving, or demolishing properties, not inconsistent with G.S. Chapter 160A, Article 19, Part 3C, designated as landmarks or within historic districts.

(Ord. No. 2014-LDO-02, 6-26-14)

2.6 PARKS, RECREATION, AND CULTURAL RESOURCES ADVISORY BOARD

2.6.1 Review and Decision-Making Responsibilities

The Parks, Recreation, and Cultural Resources Advisory Board shall have the review and decision-making responsibilities set forth in Table 2.1-1, to be carried out in accordance with the terms of this Ordinance.

2.6.2 Other Powers and Duties

The Parks, Recreation, and Cultural Resources Advisory Board shall have the following additional powers and duties, to be carried out in accordance with the terms of this Ordinance:

- (A) To develop and implement the Parks, Recreation and Cultural Resources Master Plan and other park-related, plans, policies, and programs;
- (B) Upon request of the Town Council, Planning and Zoning Board, or a staff department, to review proposed amendments to this Ordinance, proposed rezonings of property under this Ordinance, proposed master land use plans for planned developments, proposed subdivision plans, and proposed site plans, and to make recommendations to the Town Council and/or Planning and Zoning Board for final action thereon;
- (C) To report to the Town Council the recommendations of its various committees as they relate to Land Use and Development; additional powers and duties as may be set forth for the Board elsewhere in this Ordinance and other ordinances of the Town.

(Ord. No. 2017-LDO-01, 1-24-17)

2.7 PUBLIC ART ADVISORY BOARD

2.7.1 Review and Decision-Making Responsibilities

The Public Art Advisory Board shall advise the Town Council on all matters related to public art, including the acquisition and placement of works of art as well as the maintenance, removal, relocation, or alteration of existing works of art in the Town's possession and perform all duties with respect to implementing a public art program in Cary, North Carolina.

2.7.2 Other Powers and Duties

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

- (A) Review and make recommendations regarding proposed gifts of public art to the Town of Cary, as well as loans and long term exhibitions of public art on Town-owned property;
- (B) Based on recommendations brought forward by the Program Staff, periodically review and recommend changes to the Public Art Ordinance, guidelines, policies, and procedures.

2.8 STAFF DEPARTMENTS**2.8.1 Review and Decision-Making Responsibilities**

Town staff departments shall have the review and decision-making responsibilities set forth in Table 2.1-1, to be carried out in accordance with the terms of this Ordinance. The departments and agencies also shall have such additional powers and duties as may be set forth elsewhere in this Ordinance and other ordinances of the Town.

2.8.2 Development Review Committee

The Development Review Committee is composed of multiple Town staff departments working together to render decisions on applications as a single decision-making body. The Town staff departments with review and decision-making responsibilities under this Ordinance include, but are not necessarily limited to, the: Planning, Administration, Transportation and Facilities, Inspections and Permits, Fire, Parks Recreation and Cultural Resources, Public Works, Utilities, and Water Resources Departments.

(Ord. No. 2014-LDO-03, 8-14-14)