

ARTICLE 2 – ADMINISTRATION

[Replaces Zoning Ordinance – Section 11.26, 11.27, Subdivision Ordinance – Article 8, 12, City Code of Ordinances – Chapter 2, Article III]

2.01 GENERAL MEETING PROCEDURES

A. OPEN MEETINGS

All meetings of elected or appointed bodies under this Ordinance shall be open to the public in accordance with G.S. § 143-318 and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the respective bodies and approved by the City Council.

B. RULES OF PROCEDURE

All boards shall adopt formal rules of procedure consistent with the level of decision-making vested with that board (e.g., advisory review, quasi-judicial). Any adopted rules of procedure shall be kept on file at City Hall and shall be made available to the public.

C. MINUTES

Accurate minutes of each meeting shall be maintained by each board set out in this Article, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact. Each board set out in this Article shall keep records of its examinations and official actions. All of these minutes and records shall be filed in the office of the City Clerk for the public record.

D. MEETINGS

1. All bodies authorized under this Ordinance 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 board.

2.02 ADMINISTRATOR

A. THE ADMINISTRATOR

The various provisions of this Ordinance shall be administered under the general direction of the City of Eden Planning & Inspections Department. For the purposes of this Ordinance, the Director of Planning & Inspections and their subordinate staffs are collectively referred to as the Administrator. The Planning & Inspections Department will serve as the “gatekeeper” for all development applications and will advise applicants on appropriate personnel to contact.

B. POWERS AND DUTIES

1. The Administrator shall have the following powers and duties, to be carried out in accordance with the terms of this ordinance:
 - a. Make all final decisions as to the interpretation and definitions of this UDO;
 - b. Determine the amount and applicability of administrative fees;
 - c. Monitor and determine the adequacy of security instruments and escrow deposits and issuance of ministerial development approvals;
 - d. Serve as staff support for the City Council, Planning Board, Board of Adjustment, Historic Preservation Commission, Tree Board, Community Appearance Commission and Strategic Planning Commission.
 - e. Review and render interpretations of this UDO and the Official Zoning Map,
 - f. Make recommendations to the City Council, Planning Board, Board of Adjustment, Historic Preservation Commission, Tree Board, Community Appearance Commission and Strategic Planning Commission.
 - g. Accept applications for development approval; certify the completeness of submitted applications with the requirements of these regulations;
 - h. Review and prepare staff reports recommending approval, approval with conditions or denial of applications for amendments to the text of this UDO and all legislative and quasi-judicial applications;
 - i. Accept applications for, review, and approve, approve with conditions or deny, applications for all ministerial development approvals;
 - j. Monitor projects to ensure compliance with conditions of a development approval;
 - k. Monitor and assist in the enforcement of this UDO;
 - l. Review development applications to ensure that all necessary permits, licenses, franchises and approvals have been obtained from federal, state, local governmental districts, public and private utilities and other public agencies;
 - m. Serve as the chair of the Technical Review Committee (TRC);
 - n. Maintain a record of all permits, appeals, variances, certificates, reviews and such other transactions and correspondence pertaining to the administration of this UDO;
 - o. Oversee code enforcement and responsibilities related to ensuring compliance with the UDO, notification of violations, ordering actions on violations and keeping records of related activities;
 - p. Issue administrative modifications to this ordinance where appropriate;
 - q. Serve as Floodplain Administrator;
 - r. To coordinate erosion and sediment control activities;
 - s. Serve as Watershed Administrator.

C. RESPONSIBILITIES FOR REVIEW AND DECISIONS

1. The Administrator shall serve as the reviewing entity and be responsible for final actions / decisions per Section 3.01.B.3 (Review Authority Table) of this Ordinance.

D. CONFLICTS OF INTEREST

1. It shall be the duty of the Administrator and staff to avoid even the appearance of conflict of interest. Therefore, no administrative staff shall make a final decision on an administrative decision as required by G.S. § 160D if the outcome of his or her decision would have a direct, substantial, readily identifiable financial impact on him or her or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship.
2. If a staff member has a conflict of interest the decision shall be assigned to the staff member's supervisor or the supervisor's designee.

2.03 TECHNICAL REVIEW COMMITTEE (TRC)

A. POWERS AND DUTIES

1. The TRC shall serve as a review and recommending body, assisting the Administrator, City Council, Planning Board and other boards where appropriate, with the review of applications for development approval. The TRC shall provide advice and recommendations on environmental, planning, fiscal, design, engineering, transportation, utility, geo-hydrological, water availability, sustainability, environmental and technical issues, and to assess the comments and reports of reviewing City departments, regional, state and federal agencies and officials, owner/applicants and other interested parties with standing.
2. The TRC shall meet at the request of the Administrator. An owner/applicant may be invited to attend meetings of the TRC only at the discretion of the Administrator.
3. The TRC shall make recommendations to the Administrator, City Council, Planning Board and other bodies for approval, conditional approval or denial of applications for development approval.

B. MEMBERSHIP

1. The TRC shall be chaired by the Administrator (or their designee) and shall consist of technical staff and representatives of various City departments and possibly other key outside agencies on a project by project basis.
2. Members are appointed by the Administrator and shall include (but not be limited to) representatives from Fire, Municipal Services, Parks and Recreation, Planning and Inspections, Police, and Public Utilities. In addition, and as appropriate, the TRC may include, for a specific development approval application, representatives of other jurisdictions or service providers, including but not limited to representatives from additional law enforcement agencies, fire districts, school districts, other municipalities, county, public and private utilities, assessment or public improvement districts, and regional, state or federal agencies.

C. RESPONSIBILITIES FOR REVIEW AND DECISIONS

1. The Technical Review Committee shall serve as the reviewing body for applications per Section 3.01.B.3 (Review Authority Table) of this Ordinance.

2.04 BOARD OF ADJUSTMENT

A. POWERS AND DUTIES

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

1. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Administrator in the carrying out or enforcement of any provision of this Ordinance. A concurring vote of four-fifths of the members of the Board shall be necessary to reverse, wholly or partly any order, requirement, decision, permit, determination or refusal.
2. To authorize upon appeal, in specific cases, such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to the special conditions, the following written findings are made:
 - a. Carrying out the strict letter of the Ordinance would result in an unnecessary hardship. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
 - c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - d. The requested variance is consistent with the spirit, purpose, and intent of this Ordinance, such that the public safety is secured, and substantial justice is achieved.
3. The Board of Adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it can take action on cases as prescribed by this ordinance and G.S. § 160D. The board shall conduct its meeting in accordance with the quasi-judicial procedures set forth in this ordinance and its rules. Due notice shall be given to all parties in interest. All meetings of the board shall be open to the public. All evidence and testimony shall be presented publicly and all hearings, deliberations and actions of the board shall be conducted openly.

B. MEMBERSHIP AND QUORUM

1. The Board of Adjustment shall consist of ten (10) regular members. Eight (8) members shall be appointed by the City Council of which seven (7) shall be citizens and residents of the City and one (1) shall be a citizen and resident of the planning and zoning jurisdiction. Two (2) members shall be citizens and residents of the extraterritorial area described in an ordinance originally adopted November 21, 1978, (amended June 17, 2008, effective August 31, 2008) pursuant to G.S. §160D-307 and shall be appointed by the Rockingham County Board of Commissioners. If, despite good faith efforts, residents of the extraterritorial area cannot be found to fill the seats reserved for extraterritorial

- residents, then the Rockingham County Board of Commissioners may appoint other residents of the county (including residents of the City of Eden) to fill these seats. If the Rockingham County Board of Commissioners fails to make these appointments within 90 days after receiving a resolution from the City Council requesting that they be made, then the City Council may make the appointments. Extraterritorial members shall have equal rights, privileges, and duties with the other members of the board and may vote on all matters coming before the board.
2. Vacancies shall be filled by the Rockingham County Board of Commissioners or the Eden City Council, as applicable, as they occur.
 3. The members shall be appointed for terms of three (3) years, with the exception of the initial ten (10) members. Three (3) of the initial members shall be appointed for a term of one (1) year; three (3) for two (2) years; and four (4) for three (3) years. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. If a City member moves outside the City, or if an extraterritorial member moves outside the planning jurisdiction, that shall constitute a resignation from the board, effective upon the date a replacement is appointed. Officers shall be elected in accordance with the adopted rules of procedure. The council may appoint alternate members to serve on the board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member. The ordinance may designate a planning board or governing board to perform any of the duties of a board of adjustment in addition to its other duties and may create and designate specialized boards to hear technical appeals.
 4. A quorum for the board shall consist of the number of members equal to four-fifths (4/5) of the regular board membership (excluding vacant seats). A quorum is necessary for the board to take any official action.

C. ATTENDANCE

It shall be the duty of all members to inform the administrative assistant of the board of any anticipated absence and notification shall be immediately after receipt of the agenda. A member who misses three (3) consecutive regular meetings or 30 percent or more of the meetings in a calendar year loses his status as a member of the board until reappointed or replaced by the governing body of their respective unit. Absences due to sickness, death or other emergencies of like nature shall be regarded as proved absences and shall not affect the member's status on the board; except that in the event of a long illness or other such case for prolonged absence the member may be replaced.

D. RESPONSIBILITY FOR DECISIONS AND VOTING

1. The Board of Adjustment shall be responsible for final actions / decisions per Section 3.01.B.3 (Review Authority Table) of this Ordinance.
2. The Board of Adjustment shall also have any additional powers and duties as may be set forth in other laws and regulations or at the direction of the City Council.
3. The concurring vote of four-fifths of the board 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. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

E. RULES OF CONDUCT

Members of the Board of Adjustment may be removed for cause by the City Council, including violation of the rules stated below.

1. Faithful attendance to board meetings and conscientious performance of the duties required of board members shall be considered a prerequisite of continuing membership on the board.
2. Each member of the Commission shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Commission as time and circumstances permit.
3. It shall be the duty of the Board of Adjustment to avoid even the appearance of conflict of interest. Therefore, no member shall participate in or vote on any quasi-judicial matter in a manner that would violate the affected persons' constitutional rights to an impartial decision maker as required by G.S. § 160D. Violations include a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
4. In applying this rule the following procedure shall govern:
 - a. A member who has a conflict of interest shall disqualify himself or herself and withdraw from participation in the matter. The member shall not sit with the Board of Adjustment during the consideration and discussion of that matter.
 - b. Any member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Board of Adjustment. By majority vote, the Board of Adjustment may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.
 - c. If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Board of Adjustment may by majority vote (not considering the vote of the member with the alleged conflict) disqualify that member from all participation in the matter involved.
5. No board member shall vote on any matter that decides an application or appeal unless he has attended the public hearing on that application or appeal.
6. No board member shall discuss any case with any parties thereto before the hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from any member of the board or its administrative assistant before the hearing.
7. Members of the board shall not express individual opinions on the proper judgement of any case with any parties thereto before that case is determined. Violation of this rule shall be cause for dismissal from the board.

8. A member of the Board or any other body exercising the functions of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

2.05 CITY COUNCIL

A. POWERS AND DUTIES

The City of Eden City Council shall have the following powers and duties to be carried out in accordance with the terms of this ordinance.

1. To conduct any and all business in accordance with their charter and the N.C.G.S.
2. To amend the City of Eden Land Development Plan and other plans as necessary.

B. RESPONSIBILITIES AND DECISIONS

1. The City of Eden City Council shall have the following powers and duties to be carried out in accordance with the terms of this Ordinance.
2. The City Council shall render decisions regarding the following:
 - a. The City Council shall be responsible for actions and decisions per Section 3.01.B.3 (Review Authority Table) of this Ordinance.
 - b. Designation of Historic Landmarks and Historic Districts
 - (1) The designation of a historic landmark or district shall only be effective through the adoption of an ordinance by the City Council.
 - (2) No landmark or district shall be recommended for designation unless it is deemed to be of special significance in terms of its historical, prehistorical, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association. The landmark or district must lie within the planning and zoning jurisdiction of the City.

C. CONFLICTS OF INTEREST

It shall be the duty of the City Council to avoid even the appearance of conflict of interest. Therefore, no member shall participate in or vote on any legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. No member shall vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. In applying this rule the following procedure shall govern:

1. A member who has a conflict of interest shall disqualify himself or herself and withdraw from participation in the matter. The member shall not sit with the City Council during the consideration and discussion of that matter.
2. Any member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Council. By majority vote, the Council may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.
3. If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Council may by majority vote (not considering the vote of the member with the alleged conflict) disqualify that member from all participation in the matter involved.

2.06 PLANNING BOARD

A. PURPOSE

The City of Eden Planning Board is hereby created pursuant to G.S. Chapter 160D-301 and the provisions of this article.

B. POWERS AND DUTIES

1. General

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

- a. To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions.
- b. To identify needs and problems growing out of those needs;
- c. To determine objectives to be sought in development of the area;
- d. To establish principles and policies for guiding action in development of the area;
- e. To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical, social, and economic development of the area; To prepare and recommend to the City Council ordinances promoting orderly development along lines indicated in the comprehensive plan and advise it concerning proposed amendments of such ordinances;
- f. To determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area and ordinances adopted in furtherance of such plan;
- g. To keep the City Council and the general public informed and advised as to these matters; and
- h. Perform any other related duties that the City Council may direct per G.S. § 160D-301.

2. Basic Studies

- a. As background for its comprehensive plan and any ordinances it may prepare, the Planning Board may gather maps and aerial photographs of physical features of the area; statistics on

past trends and present conditions with respect to population, property values, the economic base of the area, and land use; and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts.

- b. In addition, the Planning Board may make, cause to be made, or obtain special studies on the location, the condition, and the adequacy of specific facilities; public and private utilities; and traffic, transportation, and parking facilities.
- c. All City officials shall, upon request, furnish to the Planning Board such available records or information as it may require in its work. The Board or its agents may, in the performance of its official duties, enter upon lands and make examinations of surveys and maintain necessary monuments thereon.

3. Comprehensive Plan

- a. The comprehensive plan, with the accompanying maps, plats, charts, and descriptive matter, shall be and show the Planning Board's recommendations to the City Council for the development of said territory, including, among other things, the general location, character, and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds, and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes, the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities, or terminals; and the most desirable pattern of land use within the area, including areas for farming and forestry, for manufacturing and industrial uses, for commercial uses, for recreational uses, for open spaces, and for mixed uses.
- b. The plan and any ordinances or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the City and its environs that will, in accordance with present and future needs, best promote health, safety, morals, and the general welfare, as well as efficiency and economy in the process of development; including among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion for the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities, services, and other public requirements.

4. Public Facilities

- a. The Planning Board shall review with the Administrator and other City officials and report its recommendations to the City Council concerning the location, extent, and design of all proposed public properties; and the establishment of building lines, mapped street lines, and

proposals to change existing street lines. It shall also make recommendations concerning other matters referred to it by the City Council.

5. Miscellaneous

- a. The Planning Board may conduct such public hearings as may be required to gather information for the drafting, establishment, and maintenance of the comprehensive plan. Before adopting any such plan, it shall hold at least one public hearing thereon. The Planning Board shall have power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may elect.
- b. Members or employees of the Planning Board when duly authorized by the City Manager, may attend planning conferences, meetings of planning associations, or hearings on pending planning legislation, and the Planning Board may authorize payment within the Boards budget of the reasonable traveling expenses incident to such attendance.

6. Annual Reporting & Budgeting

- a. The Planning Board shall submit in writing to the City Council a report of its activities, an analysis of its expenditures to date for the current fiscal year, and its requested budget of funds needed for operation during the ensuing fiscal year. All accounts and funds of the Planning Board shall be administered substantially in accordance with the requirements of the Local Government Fiscal Control Act as shown in G.S. Chapter 159, Article 3, Section 7.
- b. The Planning Board is authorized to receive contributions from private agencies, organizations and individuals, in addition to any funds that may be appropriated for its use by the City Council. It may accept and disburse such contributions for special purposes or projects, subject to any specified conditions that it deems acceptable, whether or not such projects are included in the approved budget

7. Special Committees

The Planning Board may from time to time establish special committees to assist it in studying specific questions and problems. The membership of such committees shall not be limited to Board members. The Board shall not delegate to any such committee its official powers and duties.

C. MEMBERSHIP AND QUORUM

1. The Planning Board shall consist of ten (10) members. Seven (7) members shall be citizens and residents of the city and shall be appointed by the City Council which shall appoint one member from each ward. Two members shall be citizens and residents of the extraterritorial area described in an ordinance adopted November 21, 1978 (amended June 17, 2008, effective August 31, 2008), pursuant to G.S. § 160D-307, and shall be appointed by the Rockingham County Board of Commissioners in accordance with G.S. § 160D-307. One member shall be nominated by the Mayor and shall be appointed at large from the planning and zoning jurisdiction of the city by the City Council. If despite good faith efforts, residents of the extraterritorial area cannot be found to fill the seats reserved for extraterritorial residents, then the Rockingham County Board of Commissioners may appoint other

- residents of the county (including residents of the City of Eden) to fill these seats. If the County Board of Commissioners fails to make these appointments within 90 days after receiving a resolution from the City Council requesting that they be made, then the City Council may make the appointments. Extraterritorial members shall have equal rights, privileges, and duties with the other members of the Board and may vote on all matters coming before the Board.
2. The City resident members shall be appointed by the Eden City Council and the ETJ resident members shall be appointed by the Rockingham County Board of Commissioners after a recommendation of the Eden City Council. The representatives of the extraterritorial area shall have equal rights, privileges, and duties with the other members of the Planning Board.
 3. The members shall be appointed for terms of three years, with the exception of the initial ten members. Four of the initial members shall be appointed for a term of one year; three for two years; and three for three years. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. If a city member moves outside the city, or if an extraterritorial member moves outside the planning and zoning jurisdiction, that shall constitute a resignation from the Board effective upon the date a replacement is appointed.
 4. The Planning Board shall elect a chair and create and fill such offices as it may determine. The term of the chair and other officers shall be one year, with eligibility for reelection. The Administrator or their designated appointee shall act as the administrative assistant to the Board, and subject to the direction of the chair, shall be responsible for taking minutes of all meetings, conducting all correspondence of the Board, supervising all clerical work of the Board, maintaining a file of all studies, plans, reports, recommendations and actions of the Board, as well as, providing other technical and professional assistance to the Board. The administrative assistant shall not be eligible to vote on any matter. The Board shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings and recommendations, which shall be a public record. The Planning Board shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with its duties. All meetings shall be open to the public. A majority of the members, excluding vacant positions, shall constitute a quorum.

D. ATTENDANCE

It shall be the duty of all Planning Board members to inform the administrative assistant of the Board of any anticipated absence and notification shall be immediately after receipt of the agenda. A member who misses three consecutive meetings or more than 30% of the meetings in a calendar year loses his status as a member of the Board until reappointed or replaced by the governing body of his respective unit. Absences due to sickness, death or other emergencies of like nature shall be regarded as proved absences and shall not affect the member's status on the Board; except, that in the event of a long illness or other such case for prolonged absence the member may be replaced.

E. RULES OF CONDUCT

1. Members of the Planning Board may be removed for cause by the City Council, including violation of the rules stated below.

- a. Faithful attendance at all Board meetings and conscientious performance of the duties required of Board members shall be considered a prerequisite of continuing membership on the Board.
 - b. Each member of the Board shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Board as time and circumstances permit.
2. It shall be the duty of every Board member to avoid even the appearance of conflict of interest. Therefore, no member shall vote on, discuss, debate, advocate, influence, or otherwise participate before the Board in any matter that would substantially affect, directly or indirectly, his or her personal financial interests or the financial interests of a member of his household. This prohibition includes formal or informal consideration of the matter by the Board, whether conducted in public or private. This provision does not prohibit participation in advisory decisions that will have a similar effect on all citizens of the planning area or in which the financial interest is so insignificant or remote that it is unlikely to affect the member's official action in any way. In applying this rule the following procedure shall govern:
 - a. A member who has a conflict of interest shall disqualify himself or herself and withdraw from participation in the matter. The member shall not sit with the Planning Board during the consideration and discussion of that matter.
 - b. Any member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Board. By majority vote, the Planning Board seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.
 - c. If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Planning Board may by majority vote (not considering the vote of the member with the alleged conflict) disqualify that member from all participation in the matter involved.

F. RESPONSIBILITIES, RECOMMENDATIONS, AND DECISIONS

1. The Planning Board shall be responsible for review, recommendation, and actions per Section 3.01.B.3 (Review Authority Table) of this Ordinance.

2.07 HISTORIC PRESERVATION COMMISSION

A. PURPOSE

1. The North Carolina General Statutes authorize cities to safeguard the heritage of the City by preserving any historic sites therein that embody important elements of its cultural, social, economic, political, archaeological or architectural history and to promote the use and conservation of such site for the education, pleasure and enrichment of the residents of the City, county and state as a whole.
2. The City Council desires to safeguard the heritage of the City by preserving and regulating historic landmarks and districts; to strengthen the economic base by the stimulation of the tourist industry; to establish and improve property values and to foster economic development.

3. The Historic Preservation Commission is hereby created to perform the duties of regulating historic districts and historic landmarks pursuant to G.S. Chapter 160D, Article 9, Part 4.

B. POWERS AND DUTIES

1. General

- a. Undertake an inventory of properties of historical, prehistorical, architectural and/or cultural significance.
- b. Recommend to the City Council structures, buildings, sites, areas or objects to be designated by ordinance as “historic landmarks” and areas to be designated by ordinance as “historic districts.”
- c. Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property.
- d. Restore, preserve and operate historic properties.
- e. Recommend to the City Council that designation of any area as a historic district or part thereof, of any building, structure, site, area or object as a historic landmark be revoked or removed.
- f. Conduct an educational program with respect to historic landmarks and districts within its jurisdiction.
- g. Cooperate with the state, federal and local governments in pursuance of the purposes of this ordinance; to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest. The City Council, or the Commission when authorized by the 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 the state or federal law.
- h. No member, employee, or agent of the Commission may enter any private buildings, structures or lands without express consent of the owner or occupant thereof.
- i. Prepare and recommend the official adoption of a preservation element as a part of the city's comprehensive plan.
- j. Review and act upon proposals for alterations, demolition, or new construction within historic districts, or for the alteration or demolition of designated landmarks pursuant to this ordinance, and
- k. Negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation when such action is reasonable, necessary or appropriate.
- l. The Historic Preservation Commission shall have the power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may elect.

- m. The City Council shall have the right to accept gifts and donations in the name of the city for historic preservation purposes. It is authorized to make appropriations to the Commission in any amount necessary for the expenses of the operations of the Commission, and the Council may make additional amounts available as necessary for acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas or objects designated as historic landmarks or within designated historic districts, or of land on which buildings or structures are located, or to which they may be removed.
- n. The Historic Preservation Commission may from time to time establish special committees to assist it in studying specific questions and problems. The membership of such committees shall not be limited to Commission members. The Commission shall not delegate to such committee its official powers and duties.

2. Miscellaneous

- a. Members or employees of the Historic Preservation Commission when duly authorized by the Administrator or his or her designee, may attend conferences, meetings of preservation associations or hearings on pending preservation legislation and the Commission may authorize payment within the Commission's budget of the reasonable traveling expenses incident to such attendance.

3. Annual Reporting and Budgeting

The Historic Preservation Commission shall submit in writing to the City Council a report of its activities, an analysis of its expenditures to date for the current fiscal year, and its requested budget of funds needed for operation during the ensuing fiscal year. All accounts and funds of the Historic Preservation Commission shall be administered substantially in accordance with the requirements of the Local Government Fiscal Control act as shown in G.S. Chapter 159, Article 3, Section 7.

C. MEMBERSHIP AND QUORUM

- 1. The Historic Preservation Commission shall consist of eight members appointed by the City Council of which each Council member and the Mayor shall have the opportunity to nominate one member to the Commission. All members shall be residents of the city's planning and zoning jurisdiction at the time of appointment; a majority of the members of the Commission shall have demonstrated special interests, experience or education in history, architecture, archaeology or related fields. The members shall be appointed for a term of three years with the exception of the eight initial members. Two of the initial members shall be appointed for a term of one year; three for two years; and three for three years. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. If a member moves outside the planning and zoning jurisdiction of the City, that shall constitute a resignation from the Commission, effective immediately.
- 2. The Historic Preservation Commission shall elect a chair and create and fill such offices as it may determine. The term of the chair and other officers shall be one year, with eligibility for reelection. The Director of the Planning and Inspections Department or his/her designated appointee shall act as the administrative assistant to the Commission, and subject to the direction of the chair, shall be

- responsible for taking minutes of all meetings, conducting all correspondence of the Commission, supervising all clerical work of the Commission, maintaining a file of all studies, plans, reports, recommendations and actions of the Commission, as well as providing other technical and professional assistance to the Commission. The administrative assistant shall not be eligible to vote on any matter.
3. Upon its first formal meeting, and prior to performing any duties under this ordinance or G.S. 160D, Article 9, Part 4 the Commission shall adopt rules of procedure governing the Commission's actions which are not inconsistent with this article or state law. The Commission shall also adopt principles and guidelines for new construction, alterations, additions, moving and demolition of designated historic landmarks and properties in historic districts prior to recommendation for designation of any historic landmark or historic district pursuant to this article. The Commission shall keep permanent minutes of all its meetings, which shall be a public record. The minutes shall record attendance of Commission members and the Commission's resolutions, findings, recommendations and actions. The Commission shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with its duties. All meetings shall be open to the public. A majority of the members, excluding vacant positions, shall constitute a quorum

D. ATTENDANCE

It shall be the duty of all Historic Preservation Commission members to inform the administrative assistant of the Commission of any anticipated absence and notification shall be immediately after receipt of the agenda. A member who misses three consecutive meetings or more than 30% of the meetings in a calendar year loses his status as a member of the Commission until reappointed or replaced by the City Council. Absences due to sickness, death or other emergencies of like nature shall be regarded as proved absences and shall not affect the member's status on the Commission; except, that in the event of a long illness or other such case for prolonged absence the member may be replaced.

E. RULES OF CONDUCT

Members of the Historic Preservation Commission may be removed for cause by the City Council, including violation of the rules stated below.

1. Faithful attendance at all Commission meetings and conscientious performance of the duties required of Commission members shall be considered a prerequisite of continuing membership on the Commission.
2. Each member of the Commission shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Commission as time and circumstances permit.
3. It shall be the duty of every Commission member to avoid even the appearance of conflict of interest. Therefore, no member shall participate in or vote on any decision regarding a development regulation 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 applying this rule the following procedure shall govern:

- a. A member who has a conflict of interest shall disqualify himself and withdraw from participation in the matter. The member shall not sit with the Commission during the consideration and discussion of that matter.
 - b. Any Commission member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Commission. By majority vote, the Commission may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.
 - c. If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Commission may by majority vote (not considering the vote of the member with the alleged conflict) disqualify that member from all participation in the matter involved.
4. No Commission member shall vote on any matter that decides an application unless he has attended the hearing on that application.
 5. Members of the Commission shall not commit themselves on any question scheduled to be considered by the Commission prior to the consideration of the matter at a duly authorized meeting. Members shall use discretion in discussing with individuals scheduled agenda items which are later to be voted on by the Commission.
 6. Members of the Commission shall not express individual opinions on the proper judgement of any application with any parties thereto before that case is determined. Violation of this rule shall be cause for dismissal from the Commission.

F. RECEIPT OF GIFTS AND AUTHORITY TO ACQUIRE PROPERTIES

The City Council shall have the right to accept gifts and donations in the name of the city for historic preservation purposes. It is authorized to make appropriations to the Commission in any amount necessary for the expenses of the operations of the Commission, and the Council may make additional amounts available as necessary for acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas or objects designated as historic landmarks or within designated historic districts, or of land on which buildings or structures are located, or to which they may be removed.

G. DESIGNATION OF HISTORIC DISTRICTS

1. A historic district is hereby established as a district which overlaps with other zoning districts, the extent and boundaries of which are indicated on the zoning map for the City and its environs. The historic district now contains, and may in the future contain several different residential, commercial and industrial zoning classifications, and all uses permitted in any such district, whether by right or as a special use, shall be permitted in the historic district.
2. No historic district or districts shall be designated until:
 - a. The Historic Preservation Commission shall have prepared and adopted rules of procedure for the transaction of its business and its organization not inconsistent with this ordinance.

- b. An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and the description of the boundaries of such district has been prepared, and
- c. Principles and guidelines have been prepared and adopted for constructing, altering, restoring, moving or demolishing properties designated as a part of a district, that are not inconsistent with this ordinance.
- d. The Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the City Council within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the municipality of any responsibility for awaiting such analysis and said City Council may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.
- e. The City Council may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendation prior to taking action to amend the zoning ordinance. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by this article shall be prepared by the Commission and shall be referred to the Planning Board for its review and comment according to procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the Department of Cultural Resources in accordance with the provisions of this article.
- f. On receipt of these reports and recommendations the city may proceed in the same manner as would otherwise be required for the adoption of amendment of any appropriate zoning ordinance provisions.

H. DESIGNATION OF LANDMARKS

1. Upon complying with the landmark designation procedures as set forth in this article, the City Council may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, prehistorical, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association.
2. The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, or prehistorical value, including the land areas of the property so designated and any other information the City Council deems necessary. For each building, structure, site, area or object so designated as a historic landmark, the ordinance shall require that the waiting period set forth in G.S. Chapter 160D, Article 9, Part 4 and of this article be observed prior to its demolition. For each designated landmark the ordinance may also provide for a suitable sign on the property indicating that

the property has been so designated. If the owner consents, the sign shall be placed upon the property. If an owner objects, the sign shall be placed on a nearby public right-of-way.

I. REQUIRED LANDMARK DESIGNATION PROCEDURES

1. As a guide for the identification and evaluation of landmarks, the Commission shall undertake at the earliest possible time and consistent with the resources available to it an inventory of properties of historical, architectural, prehistorical and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Division of Archives and History.
2. No ordinance designating a historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the Commission or the City Council until all of the following procedural steps have been taken:
 - a. The Historic Preservation Commission shall prepare and adopt rules of procedure, and prepare and adopt principles and guidelines, not inconsistent with this article, for altering, restoring, moving, or demolishing properties designated as landmarks.
 - b. The Historic Preservation Commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such investigation or report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.
 - c. The Department of Cultural Resources, acting through the State Historic Preservation Officer shall either upon request of the Department or at the initiative of the Commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this article. Any comments shall be provided in writing. If the Department does not submit its comments or recommendations in connection with any designation within 30 days following receipt by the Department of the investigation and report of the Commission, the Commission and the City Council shall be relieved of any responsibility to consider such comments.
 - d. Following the joint public hearing or separate public hearings, the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
 - e. Upon adoption of the ordinance, the owners and occupants of each designated landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the Commission in the Office of the Register of Deeds of Rockingham County, and the copy shall be made available for public inspection at any reasonable time. Each designated landmark shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds Office, and the Commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments there to shall be given to the Codes Inspector. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated

on all tax records as maintained by the city as may be appropriate for such period as the designation remains in effect.

- f. Upon the adoption of the landmarks ordinance or any amendment thereto, it shall be the duty of the Commission to give notice thereof to the tax supervisor of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor appraising it for tax purposes.

2.08 COMMUNITY APPEARANCE COMMISSION

A. PURPOSE

The Community Appearance Commission develops and carries out voluntary programs, policies and ordinances to improve community appearance and advises governmental agencies on aesthetic matters.

B. POWERS AND DUTIES

1. General

- a. Initiate promote and assist in the implementation of programs of general community beautification in the city.
- b. Seek to coordinate the activities of individuals, agencies, and organizations, public and private, whose plans, activities and programs bear upon the appearance of the city.
- c. Provide leadership and guidance in matters of area or community design and appearance to individuals, and to public and private organizations, and agencies.
- d. Make studies of the visual characteristics and problems of the city including surveys and inventories of an appropriate nature, and recommend standards and policies of design of the entire area, any portion or neighborhood thereof, or any project to be undertaken.
- e. Prepare both general and specific plans for the improved appearance of the city. These plans may include the entire area or any part thereof, and may include private as well as public property. The plans shall set forth desirable standards and goals for the aesthetic enhancement of the city or any part thereof within its area of planning and zoning jurisdiction including public ways and areas, open spaces, and public and private buildings and projects.
- f. Request from the proper officials of any public agency or body, including agencies of the state and its political subdivisions, its plans for public buildings, facilities, or projects to be located within the city
- g. Review these plans and make recommendations regarding their aesthetic suitability to the appropriate agency, or to the planning or governing board. All plans shall be reviewed by the Commission in a prompt and expeditious manner, and all recommendations of the Commission with regard to any public project shall be made in writing. Copies of the recommendation shall be transmitted promptly to the planning or governing body of the city and to the appropriate agency

- h. Formulate and recommend to the City Council the adoption of amendments or ordinances regulating the use of property that will in the opinion of the Commission serve to enhance the appearance of the city and its surrounding area.
- i. Direct the attention of City officials to needed enforcement of any ordinance that may in any way affect the appearance of the city;
- j. Seek voluntary adherence to the standards and policies of its plans;
- k. Enter in the performance of its official duties and at reasonable times upon private lands and make examinations or surveys.
- l. Promote public interest in and an understanding of its recommendations, studies and plans and to that end prepare, publish and distribute to the public such studies and reports as will, in the opinion of the Commission, advance the cause of improved municipal appearance.
- m. Conduct public meetings and hearings, giving reasonable notice to the public thereof.

2. Annual Reporting & Budgeting

- a. The Commission shall submit in writing to the City Council a report of its activities, a statement of its expenditures to date for the current fiscal year, and its requested budget for the next fiscal year. All accounts and funds of the Commission shall be administered substantially in accordance with the requirements of the Local Government Fiscal Control Act all shown in G.S. Chapter 159, Article 3, Section 7.
- b. The Commission may receive contributions from private agencies, foundations, organizations, individuals and the state or federal government, or any other source in addition to any sums appropriated for its use by the City Council. It may accept and disburse these funds for any purpose within the scope of the authority and as specified in this chapter.

3. Special Committees

The Community Appearance Commission may from time to time establish special committees to assist it in studying specific questions and problems. The membership of such committees shall not be limited to Commission members. The Commission shall not delegate to any such committee its official powers and duties.

4. Miscellaneous

- a. The Community Appearance Commission shall have the power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may elect.
- b. Members or employees of the Community Appearance Commission, when duly authorized by the City Manager, may attend conferences, meetings of appearance associations, or hearings on pending appearance legislation, and the Commission may authorize payment within the Commission's budget of the reasonable traveling expenses incident to such attendance

C. MEMBERSHIP AND QUORUM

1. The Community Appearance Commission shall elect a chair and create and fill such offices as it may determine. The term of the chair and other officers shall be one year, with eligibility for reelection. The Administrator or their designated appointee shall act as the administrative assistant to the Commission, and subject to the direction of the chair, shall be responsible for taking minutes of all meetings, conducting all correspondence of the Commission, supervising all clerical work of the Commission, maintaining a file of all studies, plans, reports, recommendations and actions of the Commission, as well as providing other technical and professional assistance to the Commission. The administrative assistant shall not be eligible to vote on any matter.
2. The Commission shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings and recommendations, which shall be a public record. The Commission shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with its duties. All meetings shall be open to the public. A majority of the members, excluding vacant positions, shall constitute a quorum
3. The Community Appearance Commission shall consist of eight members appointed by the City Council of which each Council member and the Mayor shall have the opportunity to nominate one person to the Commission. The membership shall be comprised of City of Eden representatives and ETJ representatives in a ratio proportional to their respective populations.
4. At least one (1) member of the Board of Adjustment shall represent the extra-territorial jurisdiction as required by G.S. § 160D-307. Where possible, appointments shall be made in such a manner as to maintain on the Commission at all times a majority of members who have had special training or experience in a design field such as architecture, landscape design, horticulture, urban planning, or a related field. The members shall be appointed for a term of three years. If a member of the Commission moves outside the planning and zoning jurisdiction, that shall constitute a resignation from the Commission, effective upon the date a replacement is appointed.
5. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term.

D. ATTENDANCE

It shall be the duty of all Appearance Commission members to inform the administrative assistant of the Commission of any anticipated absence and notification shall be immediately after receipt of the agenda. A member who misses three consecutive meetings or more than 30% of the meetings in a calendar year loses his status as a member of the Commission until reappointed or replaced by the City Council. Absences due to sickness, death or other emergencies of like nature shall be regarded as proved absences and shall not affect the member's status on the Commission; except, that in the event of a long illness or other such case for prolonged absence the member may be replaced.

E. RULES OF CONDUCT

Members of the Community Appearance Commission may be removed for cause by the City including violation of the rules stated below.

1. Faithful attendance at all Commission meetings and conscientious performance of the duties required of Commission members shall be considered a prerequisite of continuing membership on the Commission.
2. Each member of the Commission shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Commission as time and circumstances permit.
3. It shall be the duty of every Commission member to avoid even the appearance of conflict of interest. Therefore, no member shall participate in or vote on any decision regarding a development regulation 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 applying this rule the following procedure shall govern:
 - a. A member who has a conflict of interest shall disqualify himself/herself and withdraw from participation in the matter. The member shall not sit with the Commission during the consideration and discussion of that matter.
 - b. Any Commission member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Commission. By majority vote, the Commission may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.
 - c. If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Commission may by majority vote (not considering the vote of the member with the alleged conflict) disqualify that member from all participation in the matter involved.
4. Members of the Commission shall not commit themselves on any question scheduled to be considered by the Commission prior to the consideration of the matter at a duly authorized meeting. Members shall use discretion in discussing with individuals scheduled agenda items which are later to be voted on by the Commission.

2.09 TREE BOARD

A. PURPOSE

The City Council desires to encourage the protection of trees within the City and to express the City's intent to use trees to create a more natural and amenable human environment. The regulations contained in this section shall govern the planting, maintenance and removal of trees on municipally owned public property and rights-of-way. This shall include the trimming or removal of trees on public land when they obscure streetlights, or constitute a hazard to pedestrian or vehicular traffic, or otherwise endanger the public health, safety or welfare. This section is not intended to cause hardship to any person who uses the utmost care and diligence to protect trees within the City or on public property.

B. DUTIES AND RESPONSIBILITIES

1. General

- a. To investigate, report and make recommendations on any matter of question falling within the scope of its work, when requested by the City Council
- b. To facilitate the planting, growth and protection of trees within the city
- c. To coordinate and sponsor an annual city-wide Arbor Day observance
- d. To conduct and maintain an accurate survey of trees located on municipally owned property
- e. To investigate and pursue grants, loans or contributions from governmental agencies, public or private corporations, and individuals
- f. To develop programs and promotions within the city which will encourage public participation and cooperation
- g. To develop and maintain a list of tree species to be used as a guide for planting
- h. To develop and maintain a set of detailed guidelines including spacing between trees; minimum distances trees may be from curbs or curb lines, sidewalks, and street corners; the location of trees relative to overhead and underground water lines, sewer lines or other utilities; and any other criteria needed to regulate the planting, maintenance and removal of municipally owned trees.

2. Annual Reporting and Budgeting

- a. The primary duty of the Tree Board shall be the administration and maintenance of the Tree Ordinance. In connection with this responsibility, the Tree Board shall submit in writing to the City Council a report of its activities, an outline of projects for the following year, an analysis of its expenditures to date for the current fiscal year, and its requested budget of funds needed for operation during the ensuing fiscal year. All accounts and funds of the Tree Board shall be administered substantially in accordance with the requirements of the Local Government Fiscal Control Act, all as shown in G.S. Chapter 159, Article 3, Section 7. Upon its acceptance and approval, this annual report shall constitute the office Comprehensive City Tree Plan for the City of Eden, North Carolina
- b. The Tree Board is authorized to receive contributions from private agencies, organizations, and individuals, in addition to any funds that may be appropriated for its use by the City Council. It may accept and disburse such contributions for special purposes or projects, subject to any specified conditions that it deems acceptable, whether or not such projects are included in the approved budget.

3. Miscellaneous

- a. The Tree Board shall have the power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may elect.
- b. Members or employees of the Tree Board, when duly authorized by the City Manager, may attend conferences, meetings or hearings on pending legislation and the Tree Board may authorize payment within the Board's budget of the reasonable traveling expenses incident to such attendance.

4. Special Committees

The Tree Board may from time to time establish special committees to assist it in studying specific questions and problems. The membership of such committees shall not be limited to Board members. The Board may not delegate to any such committee its official powers and duties.

C. MEMBERSHIP AND QUORUM

1. The Tree Board shall elect a chair and create and fill such offices as it may determine. The term of the chair and other officers shall be one year, with eligibility for reelection. The Administrator or their designated appointee shall act as the administrative assistant to the Board, and subject to the direction of the chair, shall be responsible for taking minutes of all meetings, conducting all correspondence of the Board, supervising all clerical work of the Board, maintaining a file of all studies, plans, reports, recommendations and actions of the Board, as well as, providing other technical and professional assistance to the Board. The administrative assistant shall not be eligible to vote on any matter.
2. The Board shall adopt rules for transaction of its business which are in keeping with the provisions of this article. The rules shall include the provisions of this section in addition to the rules the Board shall adopt. The Board shall establish a regular meeting schedule and shall meet frequently enough so that it can handle the duties as prescribed by this article. All meetings of the Board shall be open to the public. All deliberations and actions of the Board shall be conducted openly. A majority of the members, excluding vacant positions, shall constitute a quorum. All actions of the Board shall be taken by majority vote, a quorum being present. The Board shall keep minutes of its proceedings, showing the vote of each member. A copy of the record shall be maintained on file for public inspection in the office of the secretary.
3. The Tree Board shall consist of eight members appointed by the City Council of which each council member and the mayor shall have the opportunity to nominate one person to the board. All members shall be residents of the City's planning and zoning jurisdiction at the time of appointment.
4. Where possible, appointments shall be made in such a manner as to maintain on the Commission at all times a majority of members who have had special training or experience in landscape architecture, horticulture, urban planning or a closely related field. The members shall be appointed for a term of three years with the exception of the original eight members. Three of the initial members shall be appointed for a term of one year; two for two years; and three for three years. If a member of the board moves outside the planning and zoning jurisdiction, that shall constitute a resignation from the Board, effective upon the date a replacement is appointed. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term

D. ATTENDANCE

1. It shall be the duty of all members to inform the Administrator or his or her designee of any anticipated absence and notification shall be immediately after receipt of the agenda.
2. A member who misses three consecutive meetings or more than 30% of the meetings in a calendar year loses his status as a member of the board until reappointed or replaced by the City Council.
3. Absences due to sickness, death or other emergencies of like nature shall be regarded as proved absences and shall not affect the member's status on the board; except, that in the event of a long illness or other such case for prolonged absence the member may be replaced.

E. RULES OF CONDUCT

Members of the Tree Board may be removed for cause by the City Council, including violation of the rules stated below.

1. Faithful attendance at all Board meetings and conscientious performance of the duties required of Board members shall be considered a prerequisite of continuing membership on the Board.
2. Each member of the Board shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Board as time and circumstances permit.
3. It shall be the duty of every Board member to avoid even the appearance of conflict of interest. Therefore, no member shall participate in or vote on any decision regarding a development regulation 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 applying this rule the following procedure shall govern:
 - a. A member who has a conflict of interest shall disqualify himself/herself and withdraw from participation in the matter. The member shall not sit with the Board during the consideration and discussion of that matter.
 - b. Any board member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Board. By majority vote, the Board may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.
 - c. If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Board may by majority vote (not considering the vote of the member with the alleged conflict) disqualify that member from all participation in the matter involved.
4. Members of the Board shall not commit themselves on any question scheduled to be considered by the Board prior to the consideration of the matter at a duly authorized meeting. Members shall use discretion in discussing with individuals scheduled agenda items which are later to be voted on by the Board.

F. TREE PLANTING, MAINTENANCE AND REMOVAL

1. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs on municipally owned land along streets, alleys, avenues, lanes, squares and public grounds, as is necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
2. The Tree Board may, as an agent of the City, plant, maintain, remove or cause to be removed any municipally owned tree or part thereof which is in an unsafe condition, which by reason of its nature is or may become injurious to public improvements and utilities, or which is affected with any fungus, disease, insect or other injurious condition.

G. TREE TOPPING

It shall be unlawful for any person, firm, or City department to top any tree on public property without prior approval of the Tree Board. Topping is defined as severe pruning of tree limbs larger than three inches in diameter within the tree's crown which removes the normal canopy and or disfigures the tree. Approval for topping will be granted only in cases where trees have been severely damaged, where they interfere with or are an imminent threat to public property or utilities, or where other pruning practices are deemed impractical.

H. REMOVAL OF STUMPS

All tree stumps shall be removed to a point below the surface of the ground. The resulting hole or indentation shall be filled with topsoil to the level of the surrounding land. In no case shall a stump or portion of a stump remain above ground.

I. PLANTING BY PRIVATE CITIZENS

Citizens are strongly encouraged to contact the Tree Board prior to planting to ensure compliance with these guidelines.

J. PERMITS REQUIRED

1. It shall be unlawful for any person, firm, or private group to prune, treat, or remove any tree on municipally owned property without first obtaining a permit from the City. The Tree Board will review the permit application and may inspect the tree(s) in question to determine whether or not a permit should be issued. If the Tree Board does not approve the permit reasons for such action shall be made in writing to the applicant.
2. A fee shall be charged for issuance of a permit. The permit fee shall be established by the City Council. All fees are due and payable when the permit application is submitted. All fees paid are non-refundable.

K. INTERFERENCE WITH TREE BOARD

It shall be unlawful for any person, firm, or City department to prevent, delay or interfere with the Tree Board, or any of its agents, while engaging in activities authorized by this article

L. APPEAL TO CITY COUNCIL

1. Any person may appeal any ruling or order of the Tree Board to the City Council. An appeal must be made in writing and must include the following:
 - a. A description and justification of the proposed activity;
 - b. A description of the tree(s) to be affected including approximate size, location and specie(s);
and
 - c. Specific reasons for appeal.
2. Thirteen copies of the appeal must be submitted to the Tree Board at least two weeks prior to the City Council meeting at which the appeal is to be heard. The Tree Board shall convey 11 copies to the City

Clerk. The chairman of the Tree Board or an alternate shall be present for the appeal discussion at the City Council meeting and should be prepared to defend or retract the appealed action.

2.10 STRATEGIC PLANNING COMMISSION

A. PURPOSE

The City of Eden Strategic Planning Commission is hereby created pursuant to G.S. § 160D-301 and the provisions of this ordinance.

B. POWERS AND DUTIES

1. General

- a. To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions
- b. To identify needs and problems growing out of those needs
- c. To prepare and, from time to time, amend and revise a strategic and coordinated plan for the physical, social, and economic development of the area
- d. To prepare and recommend to the City Council projects, ordinances, initiatives and programs along lines indicated in the Strategic Plan and advise it concerning these issues
- e. To keep the City Council and the general public informed and advised as to these matters
- f. To monitor the progress and success of the Strategic Plan and to inform the City Council and the Citizens of the City of Eden Planning Jurisdiction
- g. To perform any other duties that may lawfully be assigned to it

2. Basic Studies

- a. As background for its Strategic Plan and any ordinances it may prepare, the Strategic Planning Commission may gather maps and aerial photographs of physical features of the area; statistics on past trends and present conditions with respect to population, property values, the economic base of the area, and land use; and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts.
- b. In addition, the Strategic Planning Commission may make, cause to be made, or obtain special studies on the location, the condition, and the adequacy of public facilities.
- c. All City officials shall, upon request, furnish to the Strategic Planning Commission such available records or information as it may require in its work. The Commission or its agents may, in the performance of its official duties, enter upon lands and make examinations of surveys and maintain necessary monuments thereon.

3. Annual Reporting and Budgeting

- a. The Strategic Planning Commission shall, in February of each year, submit in writing to the City Council a report of its activities, an analysis of its expenditures to date for the current

fiscal year, and its requested budget of funds needed for operation during the ensuing fiscal year. All accounts and funds of the Strategic Planning Commission shall be administered substantially in accordance with the requirements of the Local Government Fiscal Control Act all as shown in Article 3, Chapter 159, Section 7 of the N.C. General Statutes.

- b. The Strategic Planning Commission is authorized to receive contributions from private agencies, organizations and individuals, in addition to any funds that may be appropriated for its use by the City Council. It may accept and disburse such contributions for special purposes or projects, subject to any specified conditions that it deems acceptable, whether or not such projects are included in the approved budget.

4. Special Committees

The Strategic Planning Commission may from time to time establish special committees to assist it in studying specific questions and problems. The membership of such committees shall not be limited to commission members. The Commission shall not delegate to any such committee its official powers and duties.

C. MEMBERSHIP AND QUORUM

1. The Strategic Planning Commission shall consist of 12 members. Members shall be citizens and residents of the City of Eden, its ETJ, local business owners or shall be persons with expertise deemed to be appropriate for inclusion on the Commission. The membership shall be comprised of City of Eden representatives and ETJ representatives in a ratio proportional to their respective populations using the most recent decennial census. The members shall be appointed for terms of three (3) years. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. Members may be re-appointed. The Strategic Planning Commission shall make recommendations to the City Council for members either to fill unexpired terms or new members.
2. The Strategic Planning Commission shall elect a chair and create and fill such offices as it may determine. The term of the chair and other officers shall be one (1) year, with eligibility for reelection. The Administrator or their designated appointee shall act as the administrative assistant to the Commission, and subject to the direction of the chair, shall be responsible for taking minutes of all meetings, conducting all correspondence of the Commission, supervising all clerical work of the Commission, maintaining a file of all studies, plans, reports, recommendations and actions of the Commission, as well as, providing other technical and professional assistance to the Commission. The administrative assistant shall not be eligible to vote on any matter. The Commission shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings and recommendations, which shall be a public record. The Strategic Planning Commission shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with its duties. All meetings shall be open to the public. A majority of the members, excluding vacant positions, shall constitute a quorum.

D. ATTENDANCE

It shall be the duty of all Strategic Planning Commission members to inform the administrative assistant of the board of any anticipated absence and notification shall be immediately after receipt of the agenda. A

member who misses three (3) consecutive regular meetings or more than 30% of the meetings in a calendar year loses his/her status as a member of the Commission until reappointed or replaced by the governing body of his/her respective unit after the receipt of a recommendation from the Strategic Planning Commission

E. RULES OF CONDUCT

Members of the Strategic Planning Commission may be removed for cause by the City Council, including violation of the rules stated below.

1. Faithful attendance at all Commission meetings and conscientious performance of the duties required of Commission members shall be considered a prerequisite of continuing membership on the Commission.
2. Each member of the Commission shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Commission as time and circumstances permit.
3. It shall be the duty of every Commission member to avoid even the appearance of conflict of interest. Therefore, no member shall participate in or vote on any decision regarding a development regulation 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 applying this rule the following procedure shall govern:
 - a. A member who has a conflict of interest shall disqualify himself/herself and withdraw from participation in the matter. The member shall not sit with the Commission during the consideration and discussion of that matter.
 - b. Any Commission member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Commission. By majority vote, the Commission may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.
 - c. If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself/herself, the commission may, by majority vote (not considering the vote of the member with the alleged conflict) disqualify that member from all participation in the matter involved.
 - d. Members of the Commission shall not commit themselves on any question scheduled to be considered by the Commission prior to the consideration of the matter at a duly authorized meeting. Members shall use discretion in discussing with individuals scheduled agenda items which are later to be voted on by the Commission.

2.11 WATERSHED REVIEW BOARD.

The Board of Adjustment is hereby established as the Watershed Review Board.

A. POWERS AND DUTIES

1. The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Administrator in the enforcement of this Ordinance.
2. The Watershed Review Board shall have the power to authorize, in specific cases, minor watershed variances from the terms of this Ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured and substantial justice done. In addition, the City of Eden shall give notice of the pending variance to all other local governments having jurisdiction in and all other entities obtaining water from the designated watershed where the variance is being considered and the City shall allow reasonable comment period for all such local governments and entities.
 - a. Applications for a watershed variance shall be made on the proper form obtainable from the Administrator and shall include the following information:
 - i. A site plan, drawn to a scale of at least one (1) inch to forty (40) feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.
 - ii. A complete and detailed description of the proposed watershed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.
 - iii. The Administrator shall notify in writing each local government having jurisdiction in the watershed. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.
 - b. Before the Watershed Review Board may grant a watershed variance, it shall make the following findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:
 - i. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:
 1. If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, is property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.
 2. The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.

3. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
4. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.
5. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.
 - ii. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
 - iii. In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.
- c. In granting the watershed variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this Ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.
- d. The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
- e. A variance issued in accordance with this Section shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Occupancy Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.
- f. If the application calls for the granting of a major watershed variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:
 - i. The variance application;
 - ii. The hearing notices;
 - iii. The evidence presented;
 - iv. Motions, offers of proof, objections to evidence, and rulings of them;
 - v. Proposed findings and exceptions;
 - vi. The proposed decision, including all conditions proposed to be added to the permit.
- g. The preliminary record shall be sent to the Environmental Management Commission for its review as follows:
 - i. If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply,

then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations granting the proposed variance.

- ii. If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.

3. Approval of all development greater than the low-density option.

B. APPEALS FROM THE WATERSHED REVIEW BOARD.

Appeals from the Watershed Review Board must be filed with Superior Court within thirty (30) days from the date of the decision. The decisions by the Superior Court will be in the manner of certiorari.