

### 2-3. Board of Adjustment.

There is hereby established as part of the government of Foxfire Village, North Carolina a Board of Adjustment with authority to carry out certain functions as hereinafter specified within the corporate limits of the Village, and the ETJ beyond the corporate limits, in accordance with G.S. 160D-302 and the provisions of this chapter and any other pertinent statutes, ordinances, and amendments that may be hereinafter enacted.

#### 2-3.1. Composition.

The Board of Adjustment shall consist of five members. A quorum shall consist of three members when all five seats are filled or on occasions when there is one vacant seat on the Board. On occasions when there are two vacant seats on the Board a quorum shall consist of two members. In accordance with G.S. 160D-307, the membership shall be proportioned between resident property owners from within the corporate limits of the Village, and from resident property owners from the ETJ outside the corporate limits of the Village where zoning jurisdiction is allowed, in accordance with the population ratio. A minimum of one member shall be from the ETJ.

The population ratio between the Village and the ETJ shall be recalculated at least on every federal census, and more often if significant population shifts have occurred, and adjustments shall be made to the board membership as required; provided, however, changes in membership shall be made only as existing membership terms expire.

The Board member(s) from the ETJ shall have equal rights, privileges, and duties with the other members of the Board, regardless of whether the matters at issue arise within the Village or within the ETJ.

#### 2-3.2. Appointment and terms of members.

The Village Council shall appoint the members from within the corporate limits of the Village. The county board of commissioners shall appoint the member or members from the ETJ. If the county board fails to make such appointment within 90 days after receiving a resolution from the Village Council requesting that an appointment be made, the Council may make the appointment. Appointments shall be made for staggered terms of three years, but members may continue to serve until their successors have been appointed. Initially, two members who reside in the Village shall be appointed for three-year terms, one member who resides in the Village and one member who resides in the ETJ shall be appointed for two-year terms, and one member who resides in the Village shall be appointed for a one-year term. An alternate member may be appointed by the Council to serve in the absence or unavailability of a member.

Appointments to fill vacancies created by members who resign or are otherwise unable to complete the terms of their appointments shall be for the unexpired portion of the terms.

#### 2-3.3. Powers and duties.

The Board of Adjustment shall hear and decide appeals from administrative decisions regarding administration and enforcement of the UDO and may hear appeals arising out of other ordinances that regulate land use or development per G.S. 160D-705.

#### 2-3.4. Officers.

The Board of Adjustment shall elect from its membership a chairperson, vice chairperson, and secretary. The chairperson shall preside over meetings/hearings and conduct the business of the board in such manner as may be appropriate to carry out the functions and duties of the board. In her absence, the vice-chairperson shall assume the duties and have the same authority as the chairperson would have.

The secretary shall keep accurate minutes of all meetings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Village Clerk.

#### 2-3.5. Meeting rules and conflicts of interest.

The Board of Adjustment shall follow quasi-judicial procedures as set forth in Article 3, section 3-6 of this UDO in determining appeals from administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision.

In addition to the conflicts of interest rules contained in section 1-5 of this UDO, no Board member exercising quasi-judicial functions shall 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 violations of due process include, but are not limited to, a member having a fixed opinion not susceptible to change prior to hearing a matter, 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.