

TEXT AMENDMENT CASE # 17-06-GCPL-03089

Text Amendment transferring approval powers of the Environmental Review Board to the Planning Board

The Guilford County Board of Commissioners at its FY17/18 Annual Retreat (10-Feb-17) voted to eliminate the Guilford County Environmental Review Board (ERB) and transfer approval authority of the ERB to the Guilford County Planning Board.

Amendments necessary for this change to the Guilford County General Development Ordinance are delineated with strikethroughs for text elimination and shading for new text.

ARTICLE VII, Environmental Regulations

7-1.5 (F) (Appeals) Stormwater Management/Watershed Development Plan.

- (F) *Appeals:* Appeals of the Enforcement Officer's decision on a Stormwater Management/Watershed Development plan shall be made in writing to the ~~Environmental Review Board~~ **Planning Board**. The Technical Review Committee shall review the appeal at its first regularly scheduled meeting after receipt of the written appeal and make a recommendation to the ~~Environmental Review Board~~ **Planning Board**.

7-1.10. Stream Channelization.

Perennial Streams in water supply district shall not be channelized without prior approval by the ~~Environmental Review Board~~ **Planning Board**.

7-1.12. (A) (2) Variances.

- (A) General:

- 2) For each request for a minor or major stormwater management/watershed variance, the Enforcement Officer shall notify all other local governments having jurisdiction within the same water supply

watershed or using the affected water supply for consumption. A comment period of at least fourteen (14) days shall be allowed before the ~~Environmental Review Board~~ **Planning Board** hearing.

7-1.12. (A) (6) Variances.

- 6) Before the ~~Environmental Review Board~~ **Planning Board** or Governing Body may grant a minor watershed variance or recommend approval to the North Carolina Environmental Management Commission (EMC) for a major variance, it shall make the following three findings, and shall include the factual reasons on which they are based.

7-1.12. (A) (2) a) i) Variances

- a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the watershed requirements, and all of the following conditions exist:
 - i. If the applicant complies with the provisions of this rule, the applicant can secure no reasonable return from, nor make reasonable use of the subject property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the EMC or ~~Environmental Review Board~~ **Planning Board** shall consider whether the variance is the minimum possible deviation from the terms of the rule that shall make reasonable use of property possible.

7-1.12. (B) Minor Stormwater/Watershed Variances.

(B) Minor Stormwater/Watershed Variances: The ~~Environmental Review Board~~ **Planning Board** is designated to approve minor stormwater management and watershed variances. The Technical Review Committee (TRC) shall review the submitted request for consistency with the Map Standards in the Guilford County Development Ordinance prior to forwarding to the ~~Environmental Review Board~~ **Planning Board** for approval or denial. Any minor

variance approved by the ~~Environmental Review Board~~ **Planning Board** may be appealed to the governing body within fifteen (15) days.

7-3.14. Appeal Hearing.

- (A) Any person assessed a civil penalty under this chapter shall have the right to a hearing before the ~~Environmental Review Board~~ **Planning Board** upon making a written demand to ~~ERB~~ **Planning Board** specifying the issues to be contested, within thirty (30) days following receipt of the assessment.

Article IX **Administration** (Table Contents)

~~9-6. The Environmental Review Board~~

- ~~9-6.1. Authority.~~
- ~~9-6.2. Membership.~~
- ~~9-6.3. Powers and Duties.~~
- ~~9-6.4. Reserved.~~

~~9-6. THE ENVIRONMENTAL REVIEW BOARD~~

~~9-6.1. Authority.~~

~~There is hereby created a planning agency, pursuant to NCCS 160A-361 or 153A-321 to be known as the Environmental Review Board.~~

~~9-6.2. Membership.~~

~~The Environmental Review Board shall consist of at least seven (7) members and may have alternates, appointed by the Governing Body.~~

~~(Case No. 5-08, 11-19-09)~~

~~9-6.3. Powers and Duties.~~

~~The Environmental Review Board shall have the following powers and duties:~~

- ~~—— (A) Investigate environmental conditions of Guilford County periodically;~~
- ~~—— (B) Review regulatory procedures and methods of governmental units;~~
- ~~—— (C) Review appropriate records and reports of governmental~~

~~units;~~

- ~~(D) Review the findings of private consultants employed by the County Commissioners or departments under their authority;~~
- ~~(E) Cooperate with and coordinate activities of various environmental committees and organizations of citizens concerned with environmental quality;~~
- ~~(F) Cooperate with and coordinate activities of educational institutions, private enterprises, and private citizens;~~
- ~~(G) Solicit and review suggestions and recommendations and criticisms made by all individual parties and organizations;~~
- ~~(H) Assist county staff in drafting ordinances for enactment by the County Commissioners when requested;~~
- ~~(I) Participate in meeting with the County Commissioners, government employees, and general public to explain findings, decisions and recommendations as required;~~
- ~~(J) Perform other functions as requested by the Guilford County Board of Commissioners;~~
- ~~(K) To hear and decide matters in accordance with the terms of this Ordinance; to wit: Minor stormwater/watershed variances, channelization of streams, underground storage tanks, Illicit and Illegal discharges, enforcement for non-compliance of environmental regulations;~~
- ~~(L) To hear and decide matters on appeal from the Enforcement Officers for Stormwater management/watershed and Soil Erosion; to wit: subdivisions, site plans, stormwater management/watershed plans, and soil erosion plans;~~
- ~~(M) To provide recommendations to the Governing Body with regard to any of the above matters which may be appealed; as well as those matters which are referred to the N.C. Environmental Management Commission with recommendation from the Governing Body such as major Stormwater management/watershed variances.~~

~~(Case No. 5-08, 11-19-09)~~

Appendix 4

Soil Erosion and Sedimentation Control Plans and Watershed Development Plans column on page #2 removing Environmental Review Board and inserting (D) Final Decision Made under Planning Board heading.

Minor Watershed Modification and Major Watershed Modification column on page #3 removing Environmental Review Board and inserting (D) Final Decision Made under Planning Board heading for Minor Modifications and (R) Recommendations Made and Forwarded for Major Watershed Modifications.

DECISION AND APPEALS CHART

Decision Makers									
Decision On...	Enforcement Officer	Technical Review Committee	Historic Preservation Commission	Multi-jurisdictional Development Ordinance Committee	Planning Board	Board of Adjustment	Environmental Review Board	Local Governing Body	
Decision On... *Special Use Permit (not otherwise specified)					D	→	→	D	
*Development Ordinance Text Amendment				R →	R →	→	→	D	
*Historic District Text Amendment			R →	R →	R →	→	→	D	
* Street Address	D	→	→	→	→	D			
*Street Name	D	→	→	→	D	→	→	D	
*Decision of Enforcement Officer	D	→	→	→	→	D			
*Interpretation of Enforcement Officer	D	→	→	→	→	D			
*Soil Erosion and Sedimentation Control Plans	D	→	→	→	→	→	P	D	
*Watershed Development Plans	D	R →	→	→	→	→	P	D	
*Land Use Plans					R	→	→	R	
*Other Plans					R	→	→	R	
Legend	R	= Recommendation Made & Forwarded				D	= Final Decision Made		
	→	= Route of Recommendation				→	= Route of Appeal		

Appendix 4

DECISION AND APPEALS CHART

Decision Makers									
Decision On...	Enforcement Officer	Technical Review Committee	Historic Preservation Commission	Multi-jurisdictional Development Ordinance Committee	Planning Board	Board of Adjustment	Environmental Review Board	Local Governing Body	
*Zoning Variances						D			
*Subdivision Walvers		D	→	→	→	→	→	→	D
*Minor Watershed Modification		R	→	→	D	→	P	→	D
*Major Watershed Modification		R	→	→	D	→	P	→	R [#]
*Zoning Vested Right					D	→	→	→	D
Legend									
	R	= Recommendation Made & Forwarded				D	= Final Decision Made		
	→	= Route of Recommendation				→	= Route of Appeal		

[#] Authority to grant major modifications rests with the N. C. Environmental Management Commission (EMC). The recommendation of the local Boards and Committees shall be forwarded to the EMC for review.

(Amd. of 4-21-05; Case No. 5-08, 11-19-09)