

TECHNICAL REPORT



TEXT AMENDMENTS TO THE LAND USE MANAGEMENT ORDINANCE, ADVISORY BOARD MEMBERSHIP POLICY, AND THE TOWN CODE OF ORDINANCES

The following Technical Report reviews proposed text amendments to revise the Advisory Board membership and length of term clauses and additional amendments to individual board and commission policies as detailed below.







BACKGROUND

- September 2018 The Council Committee on Boards and Commissions met to discuss the Advisory Board Membership Policy.
- October 2018 The Chapel Hill Town Council reviewed the Council Committee on Boards and Commissions' recommendations and called a public hearing to amend the Land Use Management Ordinance on November 14, 2018.

CONNECTIONS TO OTHER DOCUMENTS

Town staff reviewed the text amendment for compliance with the themes from the [2020 Comprehensive Plan](#)¹ and the standards of the [Land Use Management Ordinance](#)², and offers the following evaluation:

Comprehensive Plan Themes: Staff believes the proposed text amendments comply with the themes of the 2020 Comprehensive Plan as indicated in the following table:

<input type="checkbox"/>		Create a Place for Everyone	<input checked="" type="checkbox"/>		Develop Good Places, New Spaces
<input checked="" type="checkbox"/>		Support Community Prosperity	<input checked="" type="checkbox"/>		Nurture Our Community
<input type="checkbox"/>		Facilitate Getting Around	<input type="checkbox"/>		Grow Town and Gown Collaboration

SUMMARY OF PROPOSED CHANGES

The proposal before the Council intends to simplify and clarify the rules as they pertain to the Advisory Board Membership Policy. The changes will consolidate the attendance and length of term clauses in the Advisory Board Membership Policy. If the Council approves the changes, staff will also update the corresponding language in each advisory board's respective sections in the Advisory Board Membership Policy, the Code of Ordinances, and the Land Use Management Ordinance to refer back to the Advisory Board Membership Policy, thereby consolidating any reference to board membership attendance and length of term.

Tonight's Public Hearing is on the Land Use Management Ordinance (LUMO) Text Amendments (Section A below). Sections B and C are included as information but no action tonight is anticipated. Scheduled review of these items by the Council is tentatively on December 5, 2018 along with the proposed LUMO Text Amendments.

See the following table for a summary of all proposed changes:

¹ <http://www.townofchapelhill.org/home/showdocument?id=15001>

² https://library.municode.com/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALAUSMA

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Summary of Potential Amendments

A. Proposed Land Use Management Ordinance Amendments		
Proposal	Board	Subsection
1	Board of Adjustment	Article 8.3.2 - Length of Term*
		Article 8.3.6 - Attendance**
2	Historic District Commission	Article 8.4.1 - Reduce membership from 10 members to 9 members
		Article 8.4.3 - Length of Term*
		Article 8.4.8 - Attendance**

B. Proposed Advisory Board Membership Policy Amendments		
Proposal	Board	Subsection
3	All advisory boards and commissions	Membership
		Add "General" subsection
		Length of Term*
		Attendance**
4	Community Design Commission	Modify Membership
		Remove Historic District Resident designation
		Add "green design" and "place-making" as possible areas of knowledge or experience necessary to meet seat requirements
5	Environmental Stewardship Advisory Board	Modify Membership
		Designate a Stormwater Advocate seat

C. Proposed Town Code of Ordinances Amendments		
Proposal	Board	Subsection
6	Human Services Advisory Board	Chapter 2, Article VII, Section 2-121 - Length of Term*
7	Chapel Hill Public Library Advisory Board	Chapter 2, Article IX, Section 2-141 - Length of Term*
8	Cultural Arts Commission	Chapter 2, Article XIII, Section 2-177 - Length of Term*
9	Cemeteries Advisory Board	Chapter 6, Article I, Section 6-9 - Length of Term*
		Conclude board effective June 30, 2019
10	Parks, Greenways and Recreation Commission	Chapter 12, Article II, Section 12-21 - Modify Membership
		Chapter 12, Article II, Section 12-17 - Designate a Cemeteries Champion seat
11	Stormwater Management Utility Advisory Board	Chapter 23, Article I, Section 23-16 - Attendance**

*Length of Term: Make the following modification. "Members serve staggered three-year terms which shall expire on June 30. ~~However, members of boards and commissions may serve until their successors have been appointed.~~"

**Attendance: Modify threshold to missing three consecutive regular meetings or more than half of the regular meetings within in a year.

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A. Proposed Land Use Management Ordinance Amendments

Request

These proposed amendments change the Historic District Commission and Board of Adjustment sections of the Land Use Management Ordinance. The amendments would update the Historic District Commission and Board of Adjustment sections so that any reference to board membership attendance or length of term policies would refer back to the Advisory Board Membership Policy. Additionally, the Historic District Commission membership would change from ten (10) members to nine (9) members.

Proposed Changes:

1. Board of Adjustment

- Length of Term: "Sec. 8.3.2. Tenure.
~~Members of the board shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only. Members of the board shall be appointed in accordance with the Council's Advisory Board Membership Policy.~~"
- Attendance: "Sec. 8.3.6. Attendance at Meetings.
~~Any member of the board who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the board, and shall be replaced or reappointed by the council or county board of commissioners, as appropriate. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the board, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced. Attendance at meetings shall be in accordance with the council's advisory board membership policy.~~"

2. Historic District Commission.

- Membership: "Sec. 8.4.1. Establishment of the Commission.
A historic district commission, consisting of ~~ten (10)~~ nine (9) members appointed by the council, is hereby established."
- Length of Term: "Sec. 8.4.3. Tenure.
~~Members of the commission shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only. Members of the commission shall be appointed in accordance with the Council's Advisory Board Membership Policy.~~"
- Attendance: "Sec. 8.4.8. Attendance at Meetings.
~~Any member of the commission who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the commission, and shall be replaced or reappointed by the council. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the~~

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~~commission except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced. Attendance at meetings shall be in accordance with the Council's Advisory Board Membership Policy."~~

Text Amendment Finding of Fact

All information submitted at the public hearing will be included in the record of the hearing. Based on the comments and documentation submitted, the Council will consider whether it can make one or more of three required findings (listed below) for enactment of the Land Use Management Ordinance Text Amendments.

In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town, it is intended that the Land Use Management Ordinance shall not be amended except:

- A. To correct a manifest error in the chapter; or
- B. Because of changed or changing conditions in a particular area or in the jurisdiction generally; or
- C. To achieve the purposes of the Comprehensive Plan.

B. Proposed Advisory Board Membership Policy Amendments

This proposal includes several changes to the [Advisory Board Membership Policy](https://www.townofchapelhill.org/town-hall/mayor-and-council/boards-commissions/board-membership-policy)¹. These changes are included for the Council's information but no action is anticipated this evening. The changes would clarify the attendance policy, update the membership term clause, and adjust membership seats for the [Environmental Stewardship Advisory Board](https://www.townofchapelhill.org/town-hall/mayor-and-council/boards-commissions/board-membership-policy/environmental-stewardship-advisory-board)², and the [Community Design Commission](https://www.townofchapelhill.org/town-hall/mayor-and-council/boards-commissions/board-membership-policy/community-design-commission)³.

Proposed Changes:

3. Membership Section

- "Membership
General
Members of the board, commission, or committee shall be appointed to serve terms of three (3) years. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only."
- "Attendance
~~In order to be considered a member in good standing and to be eligible for reappointment to an advisory board, members must have attended 80% of scheduled meetings and trainings during their previous term. Board chairs shall report to the Chapel Hill Town Council any members who are not meeting attendance requirements. Such a report should be included as part of the advisory board or commission's recommendation for reappointment, but may also be submitted to Council as part of a request for member removal.~~

¹ <https://www.townofchapelhill.org/town-hall/mayor-and-council/boards-commissions/board-membership-policy>

² <https://www.townofchapelhill.org/town-hall/mayor-and-council/boards-commissions/board-membership-policy/environmental-stewardship-advisory-board>

³ <https://www.townofchapelhill.org/town-hall/mayor-and-council/boards-commissions/board-membership-policy/community-design-commission>

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Any member of the board, commission or committee who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the board, commission or committee, and shall be replaced by the Council or Orange County Board of Commissioners, as appropriate, provided that special extenuating circumstances may be a basis for automatic removal to be reconsidered by the Council on a case by case basis. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the board, commission or committee, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

Advisory Board or Commission's Chair and staff liaison is directed to reach out to a member who has two consecutive unexcused absences to alert the member of the attendance clause. Notification shall also be sent to Mayor and Council and Town Clerk. Upon the third consecutive regular meeting absence, the chair or staff liaison shall send another notification to the member, Mayor and Council, and Town Clerk. "

- "Length of Term
Members serve staggered three-year terms which shall expire on June 30. ~~However, members of boards and commissions may serve until their successors have been appointed.~~ Advisory board Commission or Committee members who are appointed by Chapel Hill Town Council may be removed at any time by a vote of the Council."

4. Community Design Commission membership policy

- Add "green design, place making" to the Seat Requirements, and remove Chapel Hill Historic District resident as a Seat Category.

"Seat Category	Seat Requirements
Chapel Hill Resident	Must live within the municipal limits of the Town of Chapel Hill and have demonstrated special training or experience in a design field such as architecture, landscape design, horticulture, city planning, <u>green design, place making</u> or a closely related field.
Chapel Hill Historic District Resident	Must live within one of the Town of Chapel Hill's historic districts. Preference given to applicants who also have demonstrated education, special training, experience, or interest in history or a design field such as architecture, landscape design, horticulture, city planning or a closely related field."

5. Environmental Stewardship Advisory Board membership policy

- Add a Stormwater Advocate Seat to recognize the stormwater interests in the review of development applications.

Seat Category	Seat Requirements
<u>Stormwater Advocate</u>	<u>Must live within the municipal limits of the Town of Chapel Hill and have demonstrated knowledge of stormwater management and/or</u>

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Seat Category	Seat Requirements
	<u>engineering, as well as relevant laws, policies, and adopted Council plans.</u>

C. Proposed Town Code of Ordinances Amendments

These changes proposes several amendments to the Town Code of Ordinances. The amendments would update the Cemeteries Advisory Board, the Chapel Hill Public Library Advisory Board, the Cultural Arts Commission, the Human Services Advisory Board, the Parks, Greenways, and Recreation Commission, and the Stormwater Management Utility Advisory Board so that any reference to board membership attendance or length of term policies would refer back to the Advisory Board Membership Policy. Additionally, the proposed amendment would designate a Cemeteries Champion seat on the Parks, Greenways, and Recreation Commission, and would conclude the Cemeteries Advisory Board effective June 30, 2019.

Proposed Changes:

6. Human Services Advisory Board Membership Terms

- "Sec. 2-121. - Membership; terms.
The human services advisory board shall consist of seven (7) members. Members of the board shall be appointed in accordance with the Council's Advisory Board Membership Policy ~~The terms of office shall be three (3) years, or until their successors are appointed and qualified, except that the initial terms of members first appointed shall be as follows: Two (2) members shall be appointed for a period of one (1) year, two (2) members shall be appointed for a period of two (2) years, and three (3) members shall be appointed for a period of three (3) years. Members may be reappointed to succeed themselves. The terms of all members shall expire on the 30th day of June following the end of the final year of their terms.~~
The advisory board shall be selected to be representative of the entire town community, its needs, aspirations and values. The advisory board shall not be an advocacy group to lobby for or represent special interests.
Members of the human services advisory board may serve as a board member or as paid or nonpaid staff of a human service agency only if that agency does not apply for or receive funding from the town."

7. Chapel Hill Public Library Advisory Board Membership Terms

- "Sec. 2-141. - Membership; terms.
The Chapel Hill Public Library Advisory Board shall consist of nine (9) appointed members as hereinafter provided. Their terms of office shall be four (4) years ~~or until their successors are appointed and qualified.~~
The terms of all members shall expire on June 30. Members of the board shall be appointed in accordance with the Council's Advisory Board Membership Policy."

8. Cultural Arts Commission Membership Terms

- "Sec. 2-177. - Membership, terms.
The Chapel Hill Cultural Arts Commission shall consist of eleven (11) members, appointed as hereafter provided, ten (10) who shall be residents of the town, and one (1) who shall be a Carrboro resident. ~~The terms of office shall be for three (3) years or until their successors are appointed and qualified. Except as otherwise~~

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~~provided by this article, appointments, reappointments and vacancies shall be filled as prescribed in the town council's Procedures Manual, Section 11.D-2. Members of the board shall be appointed in accordance with the Council's Advisory Board Membership Policy."~~

9. Cemeteries Advisory Board Membership Terms

- "Sec. 6-9. - Membership, terms.
The cemeteries advisory board shall consist of five (5) members appointed by town council. In addition to council-appointed members, the historic district commission and the Preservation Society of Chapel Hill shall designate one of its current members to represent them on the cemeteries advisory board as non-voting representatives. ~~The terms of office shall be three (3) years, or until their successors are appointed and qualified, except that the initial terms of members first appointed shall be as follows: two (2) members shall be appointed for a period of one (1) year, two (2) members shall be appointed for a period of two (2) years, and one (1) member shall be appointed for a period of three (3) years. Members may be reappointed to succeed themselves for a second consecutive term. The terms of all members shall expire on the thirtieth day of June following the end of the final year of their terms. Members of the board shall be appointed in accordance with the Council's Advisory Board Membership Policy."~~
- Removal of Article I, Division 2, Sections 6-8 through Section 6-11 CEMETERIES ADVISORY BOARD from the Town Code of Ordinances. Section 6-8 through 6-17 will be Reserved. This amendment will be effective June 30, 2019.

- ~~"DIVISION 2.—CEMETERIES ADVISORY BOARD
Sec. 6-8.—Created; named:
A cemeteries advisory board is hereby created for the Town of Chapel Hill for the purpose of providing citizen input to the town council on policies for the operation and maintenance of the town's cemeteries.~~

~~Sec. 6-9.— Membership, terms:~~

~~The cemeteries advisory board shall consist of five (5) members appointed by town council. In addition to council-appointed members, the historic district commission and the Preservation Society of Chapel Hill shall designate one of its current members to represent them on the cemeteries advisory board as non-voting representatives. The terms of office shall be three (3) years, or until their successors are appointed and qualified, except that the initial terms of members first appointed shall be as follows: two (2) members shall be appointed for a period of one (1) year, two (2) members shall be appointed for a period of two (2) years, and one (1) member shall be appointed for a period of three (3) years. Members may be reappointed to succeed themselves for a second consecutive term. The terms of all members shall expire on the thirtieth day of June following the end of the final year of their terms.~~

~~Sec. 6-10.— Appointment, vacancies:~~

~~The members shall be appointed and vacancies filled as prescribed in Section 11.D-2 of the Council's Procedures Manual:~~

~~Sec. 6-11.— Meetings, chairperson:~~

~~The cemeteries advisory board shall hold meetings quarterly at such time and places as it shall determine. It shall annually elect one (1) member to serve as chairperson and to preside over its meetings. All meetings of the board shall be open to the public in accord with the Open Meetings Law of North Carolina, and reasonable notice of the time and place thereof shall be given to the public in accord with Chapter 143, Article~~

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~~33C of the N.C. General Statutes. The board shall keep a record of its meetings; including attendance of its members; its resolutions, findings, recommendations and actions. A quorum of the board, necessary to take any official action, shall consist of a majority of members excluding any vacant seats. The concurring vote of a simple majority of those members present shall be necessary to take any official action.~~

Secs. 6-8—6-17. - Reserved.”

10. Parks, Greenways and Recreation Commission Membership Terms

- “Sec. 12-17. - Membership.

~~From July 1, 2014, until June 30, 2015, the commission shall consist of the members of the greenways commission and [the] parks and recreation commission who were serving on April 17, 2014 unless that member has communicated in writing to the Town that they do not wish to serve on the parks, greenways and recreation commission. The commission shall consist of nine (9) commissioners, all of whom shall be appointed at large. Eight (8) members shall be residents of the town appointed by the town council. One of the town appointed seats shall be designated as a cemeteries champion seat to focus on cemetery interests. One (1) member shall be a resident of Orange County appointed by the Orange County Board of Commissioners.~~

The council shall request that the town's youth teen council appoint a representative to attend commission meetings and serve as a liaison.”

- “Sec. 12-21. - Attendance of commissioners at meetings.

~~A commissioner who, without excuse, misses more than three (3) consecutive regular meetings or a total of four (4) such meetings during the year loses his status as a member of the commission. In such cases, the chair will immediately request the council to fill the vacancy. Absences due to sickness, death or other such obligatory emergencies shall be regarded as excused absences and shall not affect the commissioner's status on the commission. However, in the event of long illness, or other such causes for prolonged absence, the commissioner may be replaced. Attendance at meetings shall be in accordance with the Council's Advisory Board Membership Policy.”~~

11. Stormwater Management Utility Advisory Board Attendance Clause

- “Sec. 23-16.- Meeting attendance.

~~Any member of the board who misses more than three (3) consecutive meetings shall lose his or her status as a member of the board, and shall be replaced or reappointed by the council. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the board, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced. Attendance at meetings shall be in accordance with the Council's Advisory Board Membership Policy.”~~