

AN ORDINANCE TO ESTABLISH A PLANNING BOARD FOR CLAY COUNTY, NORTH CAROLINA

Amended and Restated

WHEREAS, An Ordinance establishing a planning board for Clay County, North Carolina (hereinafter referred to as the Original Ordinance) was approved on the 9th day of July, 1990 and recorded in the minutes of the Clay County Board of Commissioners which are recorded in the Clay County Register of Deeds office;

WHEREAS, the Original Ordinance is also found in the Clay County Code of Ordinances recorded in the Clay County Register of Deeds and kept in the Clerk to the Board’s office;

WHEREAS, the Original Ordinance cited G.S. 153A-321 as the authority for the County Commissioners to establish the planning board;

WHEREAS, North Carolina Legislature repealed G.S. 153A-321 and passed its stead into law G.S. 160D-301 entitled “Planning Boards” which grants the authority to the Board of Commissioners the power to establish a planning board for Clay County, North Carolina;

WHEREAS, G.S. 1160D-111 entitled “Effect on prior law” states that “the enactment of this Chapter does not require the reoption of any local government ordinance enacted pursuant to laws that were in effect before January 1, 2020 and are restated or revised herein;

WHEREAS, G.S. 116D-111(c) states that “Whenever a reference is made in another section of the General Statutes or any local act, or any local government ordinance, resolution, or order, to a portion of Article 19 of Chapter 160A of the General Statutes or Article 18 of Chapter 153A of the General Statutes that is repealed or superseded by this Chapter, the reference is deemed amended to refer to that portion of this Chapter that most nearly corresponds to the repealed or superseded portion of Article 29 of Chapter 160A or Article 28 of Chapter 153A of the General Statues.”

WHEREAS, the Original Ordinance needs to be amended and restated in accordance with the following changes:

NOW, THEREFORE, BE IT ORDAINED BY THE Clay County Board of Commissioners of Clay County that the original Ordinance dated the 9th day of July, 1990 be amended and restated as follows:

1. Section 1. Creation.

The Clay County Board of Commissioners hereby establishes the Planning Board under the authority granted by the General Statues of the State of North Carolina, Chapter 160D-301. The board shall constitute, function, and may be referred to as the Clay County Planning Board.

2. Section 2. Composition and Vacancies.

The Planning Board, hereinafter referred to as the “Board,” shall consist of five (5) members. The Board members shall be citizens and residents of Clay County and shall be appointed by the Board of Commissioners, with one member representing each of the following areas:

Agriculture, farming and/or forestry – One member;
Banking and/or finance - One member;
Development, construction and/or Building inspections – One member;
Real Estate – One member;
Water and Sewer or Soil and Water - One member

The initial appointments to the Planning Board shall be made as follows: Three (3) members shall be appointed for a term of three (3) years, two (2) members shall be appointed for term of two (2) years. As the terms of all members expire, members may be reappointed or new members appointed by the Board of Commissioners for terms of three (3) years.

All members appointed to the board shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26 and G.S. 160A-61.

In the event of a vacancy on the Planning Board, the Board of Commissioners shall appoint a new member to fill the unexpired term of the vacated position.

All five (5) members of the Planning Board shall have equal rights, privileges and duties. Regular attendance of the meetings of the Board is considered a prerequisite for maintenance and membership on the Board. If a member is absent from more than three (3) consecutive meetings, the member may be replaced at the discretion of the Board of Commissioners.

Section 3. Organization, Rules, Meetings and Records.

The Planning Board shall meet and elect a chairman and vice chairman from among its regular members, both of whom shall serve for a term of one (1) year or until reelected or until their successors are elected. The Board shall appoint a secretary, who may be a county officer or employee of the county or a member of the Boards, and who shall hold office during the term of the chairman and/or until a successor secretary shall have been appointed. The Board may create and fill other offices as it may determine.

The Board shall adopt rules for the transaction of its business which are consistent with this ordinance as well as the General Statutes of the State of North Carolina, and shall keep a record of its members' attendance, and of its resolutions, discussions, findings, and recommendations, which record shall be a public record. The Board shall schedule at least ten (10) meetings per year and all its meetings shall be open to the public. There shall be a quorum of three (3) members for the purpose of taking any official action required by this ordinance.

Section 4. Conflict of Interest.

Members of the appointed board shall not vote on any advisory or legislative decision regarding a planning or development regulation adopted pursuant to G.S. 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

An appointed board member shall not vote on any petition for the land planning or land development regulation if the landowner of the property subject to the plan or land development petition or the applicant for the land planning or land development plan is a person with whom the member has a close familial, business, or other associational relationship.”

Section 5. Expenditures, Incurring Indebtedness, Donations.

The expenditures of the Planning Board shall be within the amounts appropriated for the purpose by the Board of Commissioners, and no indebtedness for which the county shall be liable shall be contracted or incurred by the said Board unless and appropriation is made by the Board of Commissioners for such purpose, as authorized by law, and then only to the extent of such appropriation.

The Board nor any of its members shall accept gifts and/or donations for the exercise of its functions.

Section 6. Powers and Duties.

The Board shall have the power to perform the following duties:

- (1) Prepare, review, maintain, monitor and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping and analysis.
- (2) Facilitate and coordinate citizen engagement and participation in the planning process;
- (3) Develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
- (4) Advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all land use and map amendments as required by G.S. 160D.
- (5) Exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct.

- (6) Provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.
- (7) Perform any other related duties that the governing board may direct.

Section 7. Repeal and Effective Date.

Any ordinances or part of ordinances in conflict herewith are hereby repealed and this ordinance as amended and restated shall be in full force and effect as an ordinance of Clay County from and after the date of its adoption by the Clay County Board of Commissioners.

Section 8. Validity.


Should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any continue in full force and effect.

Section 9. Adoption.

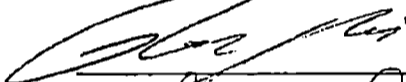
This Ordinance as amended and restated to Establish a Planning Board for Clay County, North Carolina herein above set forth, adopted and enacted, shall be included in the Code of Ordinances of Clay County.

ADOPTED AND PASSED by the Clay County Board of Commissioners, this the 3rd day of June, 2021.

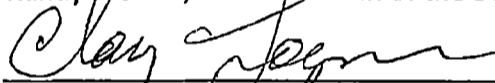




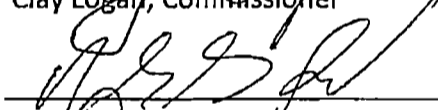
 Dr. Robert Peck, Chairman of the Board



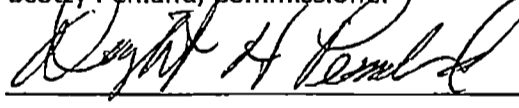
 Randy Nichols, Vice-Chairman of the Board



 Clay Logan, Commissioner



 Scotty Penland, Commissioner



 Dwight Penland, Commissioner

Attest:


 Clerk to the Board