

## **Town Code Chapter 2 Administration (Land Use Applicable Portion)**

### 2-16.1. - Governing board conflict of interest in zoning.

A town board member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A town board member shall not 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.

### 2-16.2 Zoning Hearings

The board of commissioners shall not hold its required hearing or take action until it has received a recommendation regarding the regulation from the planning board. Following its required hearing, the board of commissioners may refer the regulation back to the planning board for any further recommendations that the board may wish to make prior to final action by the board of commissioners regarding adopting, modifying and adopting, or rejecting the regulation. Following the initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the board of commissioners may act on the amendment without the planning board report. The board of commissioners is not bound by the recommendations of the planning board. Any development regulation other than a zoning regulation that is proposed to be adopted pursuant to the Town Code may be referred to the planning board for review and comment. Any development regulation other than a zoning regulation may provide that future proposed amendments of that ordinance be submitted to the planning board for review and comment. Any other action proposed to be taken pursuant to the Town Code may be referred to the planning board for review and comment.

### 2-16.3 Governing board statement of reasonableness in zoning regulations

a) Plan Consistency. - When adopting or rejecting any zoning text or map amendment, the board of commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes by the board of commissioners that at the time of action on the amendment the members were aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the board of commissioners' statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

(b) Additional Reasonableness Statement for Rezoning. - When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the board of commissioners. This statement of

reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the board of commissioners' statement on reasonableness may address the overall rezoning.

(c) Single Statement Permissible. - The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

#### 2-41. - General rules.

The Planning Board of the Town of North Wilkesboro, North Carolina, hereinafter referred to as the "board," shall be governed by Chapters §160D-301, 160D-307, and 160D-102; 103; 106; 502 of the General Statutes of North Carolina and other general and special acts pertaining to planning and related activities in North Wilkesboro as well as policies established by the planning board in concurrence with the board of commissioners. The planning board shall prepare or shall review and comment upon a proposed zoning regulation, including the full text of such regulation and maps showing proposed town and extraterritorial jurisdiction boundaries. The planning board may hold public meetings and legislative hearings in the course of preparing the regulation. Upon completion, the planning board shall make a written recommendation regarding adoption of the regulation to the board of commissioners.

#### 2-42. - Purpose and duties of the planning board.

The planning board, in concurrence with the Town of North Wilkesboro Board of Commissioners, hereinafter referred to as the "board of commissioners", is charged with protecting the public health, safety and welfare as it pertains to the orderly growth and development of North Wilkesboro. For this purpose, the planning board is designated to perform the following duties:

- (1) Prepare, review, maintain, monitor, and periodically update and recommend to the board of commissioners 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 board of commissioners concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.
- (5) Exercise any functions in the administration and enforcement of various means for carrying out plans that the board of commissioners may direct.
- (6) Review and make recommendations on any permit application to be heard by the board of commissioners

(7) Perform any other related duties that the board of commissioners may direct to them.

#### 2-43. - Membership.

- (a) The Planning Board of the Town of North Wilkesboro shall consist of eight members appointed by the Board of Commissioners. Four of the members shall be from the town's extraterritorial jurisdiction. Every decennial census the calculation of the board must be verified to ensure proper representation is established with the board members. Proportional representation shall be provided by appointing member representation of residences of the extraterritorial jurisdiction and of the town limits.
- (b) All in-town members and successors may be recommended by the planning board and appointed by the board of commissioners and all ETJ members and successors may be recommended by the planning board and appointed by the Wilkes County Board of Commissioners.
- (c) Vacancies of in-town members occurring for reasons other than expiration of terms may be recommended by the planning board and shall be filled by the board of commissioners; as such vacancies occur, for the period of the unexpired term. The board of commissioners may establish reasonable procedures to solicit, review, and make appointments. Vacancies of ETJ members occurring for reasons other than expiration of terms may be recommended by the planning board and shall be filled by the Wilkes County Board of Commissioners, as such vacancies occur, for the period of the unexpired term. The county shall make the appointments within 90 days following the receipt of a request from the Town that the appointments be made. A vacancy shall exist on the planning board if a member is absent (unexcused) from three consecutive regular meetings or thirty-three percent or more of the planning board's regular meetings within a one-year period.
- (d) Members shall be limited to two consecutive full five year terms. When a member is appointed to fill an unexpired seat, the member will serve the balance of that term and up to one additional five-year term.
- (e) Each board member take an oath of office before starting his or her duties.

#### 2-44. - Officers and duties.

- (a) Chair. The Chair shall be elected by the Planning Board from among its members for a one-year term of office and may not serve as chairman for more than two consecutive one-year terms, beginning in the month of June. The chair shall decide all matters of order and procedure, subject to these rules, unless directed otherwise by a majority of the board in session at the time. The chair shall appoint any committees found necessary to investigate any matters before the planning board or to perform any of its duties.
- (b) Vice-chair. A vice-chair shall be elected by the planning board from among its members for a one-year term of office and may not serve as vice-chairman for more than two consecutive one-year terms, beginning in the month of June, and he/she shall be eligible for reelection. The vice-chair shall serve as acting chair in the absence of the chair and at such times the vice-chair shall have the same powers and duties as the chair.
- (c) Method of election. Annually, at the first regular meeting in the month of June, the board shall elect a chair and vice-chair. If such a regular meeting is canceled or a quorum lacking, then the election shall be held within thirty-six days thereafter at a regular or special meeting. The chair shall call for nominations for chair which shall be verbal and seconded by board members. Any number of members may be nominated. The chair shall close

nominations and call for a show of hands on each nominated member. A quorum shall be present for election. The newly elected member shall immediately assume the chair. The same procedure shall be followed for the election of the vice-chair. Whenever the office of chair or vice-chair becomes vacant during the twelve-month term of office, the same procedure shall be used to fill the vacancy, provided at least two-thirds of the entire membership of the board is present.

(d) Executive secretary. The Planning Director shall serve as executive secretary of the board. The secretary, subject to the direction of the chair and the board, shall keep all records as well as supervise the correspondence and other clerical work of the board. The secretary shall insure that minutes of each board meeting are recorded of all proceedings. These shall include all important facts pertaining to every meeting and hearing, every resolution acted upon by the board, and all votes of members of the board upon any resolution or other matter, indicating the names of members absent or abstaining from voting.

(e) The board may have detailed rules of procedures and if adopted they must be maintained by the executive secretary and they must be posted on the Town's website and readily available.

#### 2-45. - Meetings.

(a) General. Meetings shall be conducted in accordance with Article 33C of Chapter 143 of the General Statutes of North Carolina.

(b) Regular meetings. Regular meetings of the board shall be held on the second Thursday of the month as needed. Regular meetings may be established at some other time at the discretion of the board. The meetings shall be held in the municipal building or any other location within the town or the area of its extraterritorial jurisdiction. All members shall serve with pay according to the adopted rates on file with the town clerk for all regularly scheduled meetings. Members may also be reimbursed for any reasonable expenses incurred while representing the board.

(c) Special meetings. Special meetings of the Board may be called at any time by the chair. Notice of the time and place of special meetings shall be given by the executive secretary to each member of the board at least forty-eight hours in advance of any such meeting. When the need for a special meeting arises members shall be reimbursed only if the meeting is called specifically at the request of an applicant.

(d) Cancellation of meetings. Whenever there is no business for the planning board, the chair and/or executive secretary may cancel a regular meeting.

(e) Conduct of meetings. Meetings shall be conducted in accordance with Robert's Rules of Order Newly Revised. The order of business at meetings shall be:

(1) Call to order and determination of quorum.

(2) Approval of minutes of previous meetings(s).

(3) Discussion and recommendation of matters which public hearings were held, or previously held and continued, in a working session.

(4) Public hearings pertaining to zoning map amendments, text amendments or other matters requiring such hearings.

(5) Reports of committees.

(6) Other unfinished business.

- (7) Other new business.
- (8) Planning Director's report.
- (9) Adjournment.
- (f) Duty to vote. Every member must vote unless excused by the remaining members. A member who wishes to be excused from voting shall so inform the chair, who shall entertain a motion by the remaining members present on the request. No member shall be excused from voting except on matters involving his own financial interest or official conduct. In all other cases, a failure to vote by a member who is physically present or has withdrawn without being excused by a majority vote of the remaining members present shall be recorded as an affirmative vote.
- (g) Contacts outside public hearings. The public hearing is the primary place where petitioners, opponents, and others interested in matters considered by the board should present information concerning such matters. Contact between interested parties and board members outside of public hearings is discouraged. When such contact occurs, members should disclose the content of the contact at the next regular meeting.
- (h) Quorum determination. A majority of the board membership, excluding vacancies, shall constitute a quorum. A quorum shall be present for the board to take any official action.
- (i) Conflict of interest. Members of the board shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A board member shall not 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. If any board member has a financial or close familial, business, or other associational relationship interest in a matter before the board, that member shall ask the chair to be recused from participating in the hearing, discussion, and voting on the matter. Recused members shall vacate their seats while the matter is being considered. No board member should accept any gift, meal, or any other thing of value from any party involved in a matter before the board. Board members should not indicate their positions regarding matters before the body prior to receiving all the evidence presented at the public hearing.
- (j) Absence and attendance. It shall be the duty of all planning board members to inform the executive secretary of any anticipated absence and notification shall be immediately after receipt of the agenda. A regular member who misses three consecutive regular meetings or thirty-three percent or more of the regular meetings in a calendar year loses his status as a voting member of the board until reinstated or replaced by the board of commissioners, or the Wilkes County Board of Commissioners if an extraterritorial member. Absences due to sickness, death or other emergencies of like nature shall be regarded as approved 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.
- (k) Resignation. If a member of the board moves outside the town limits, or the extraterritorial jurisdiction member moves outside the extraterritorial jurisdiction area, it shall constitute a resignation from the board effective upon the date a replacement is appointed.
- (l) Planning board statement of reasonableness. When conducting a review of proposed zoning text or map amendments, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and

any other officially adopted plan that is applicable. The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the board of commissioners that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the board of commissioners. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.