



**Town of Weaverville  
Planning Board  
Regular Monthly Meeting  
Tuesday, March 7, 2023, 6:00pm**

**Agenda**

1. Call to Order – Chair Bob Pace
2. Approval of the Agenda
3. Approval of the Minutes
  - February 7, 2023 regular meeting of the Board
4. Text Amendments: Nonconforming Lots, Table of Dimensional Requirements, Mapping Standards
  - Discussion Related to the Proposed Text Amendments
  - Consideration of a Motion Establishing a Recommendation to Town Council on the Proposed Text Amendments
5. Table Of Uses
  - Discussion Related to a Comprehensive Review of the Table of Uses
6. Any Other Business
  - Adopted Rules of Procedure
  - Joint Meeting with Town Council
7. Adjournment

**TOWN OF WEAVERVILLE**  
**PLANNING BOARD AGENDA ITEM**

**Date of Meeting:** Tuesday, March 7, 2023

**Subject:** Minutes

**Presenter:** Planning Director

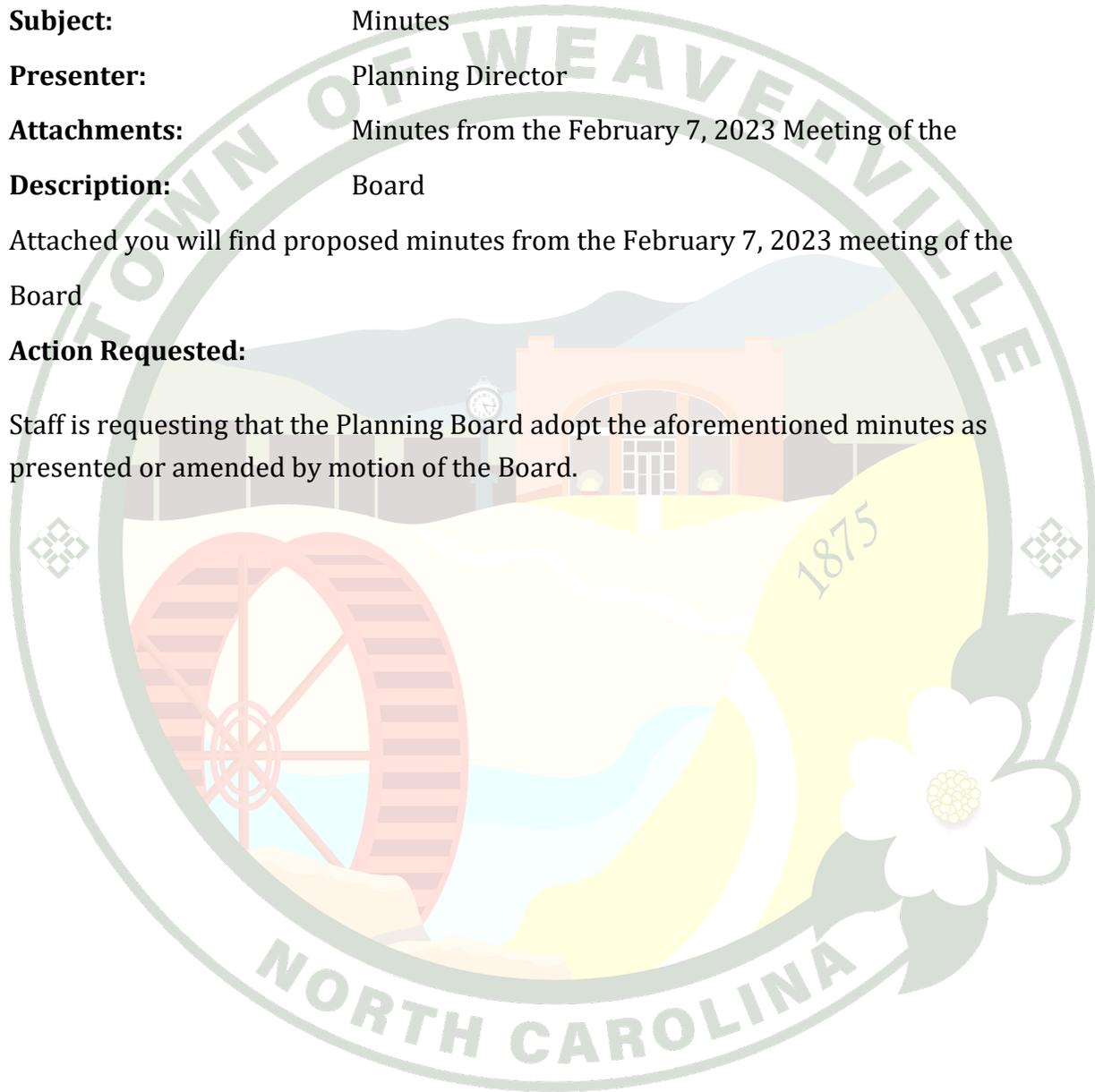
**Attachments:** Minutes from the February 7, 2023 Meeting of the

**Description:** Board

Attached you will find proposed minutes from the February 7, 2023 meeting of the Board

**Action Requested:**

Staff is requesting that the Planning Board adopt the aforementioned minutes as presented or amended by motion of the Board.



Town of Weaverville  
Planning Board  
Minutes – Tuesday, February 7, 2023

The Planning Board of the Town of Weaverville met for a regularly scheduled monthly meeting at 6:00pm on Tuesday, February 7, 2023 within Council Chambers at Town Hall.

Present: Board Members Bob Pace, Mark Endries, Jane Kelley, and Donna Mann Belt and Alternate Members Maggie Schroder and Ryan Gagliardi, Town Council Liaison Michele Wood, Town Attorney Jennifer Jackson and Planning Director James Eller. Board Member Rachael Bronson was absent.

**1. Call to Order**

Mr. Pace called to order at 6:00 pm.

Mr. Pace recognized Mr. Gagliardi as a regular member of the Board to fill the absence of a regular member.

**2. Approval of the Agenda**

Noting no objections Mr. Pace declared the agenda approved by consent.

**3. Approval of the Minutes from the January 3, 2023 Meeting of the Board**

Ms. Kelley motioned to approve the minutes as presented. Mr. Endries seconded and all voted unanimously in favor of the motion.

**4. Nonconforming Lots**

Mr. Eller presented a staff report analyzing existing regulations, the enforcement of existing regulations, and potential additional regulations each related to nonconforming lots. It was noted that staff was seeking a conversation with the Board revolving around how to simplify the regulations applicable to nonconforming lots with a specific interest on the Board's opinion related to the 20% threshold for variances and a potential additional regulation requiring the combination of nonconforming lots under common ownership in order to create a conforming lot. Mr. Eller noted that all variances related to this 20% threshold have been granted by the Board of Adjustment.

Following discussion it became the consensus of the Board to reduce the threshold to below 50% of the required lot width or lot area in order to require a variance from the Board of Adjustment to convert a nonconforming lot to a buildable lot. This would reduce the number of variance applications to be heard by the Board of Adjustment and allow for more staff level approvals for construction on nonconforming lots.

Mr. Eller noted that some jurisdictions require the combination of nonconforming lots in order to create conforming lots. The volume and age of nonconforming lots in town was also discussed. Following discussion it became the consensus of the Board to not require the combination of nonconforming lots under common ownership.

Staff will craft a proposed ordinance based upon these consensus positions to be presented at the next meeting of the Board.

**5. Technical Change Text Amendment**

Mr. Eller presented a staff report related to the existing table of dimensional requirements and lead a discussion focusing on the additional minimum lot area required for each additional unit for multifamily housing projects. Particular attention was given to the additional units which could be achieved on large parcels of land. Following discussion it became the consensus of the Board to cap the density of multifamily development at 8 units per acre in the R-3 zoning district and 12 units per acre in the R-12 zoning district.

Staff will craft a proposed ordinance based upon these consensus positions to be presented at the next meeting of the Board.

**6. Amendment to Rules of Procedure**

Ms. Jackson presented amendments to the rules of procedure discussed at the previous meeting. Said amendments were related to Rule 8, Substantive Motions and technical changes in the previously referenced Planning and Zoning Board.

Ms. Mann Belt made a motion to adopt the amendments to the rules of procedure as presented. Ms. Kelley seconded the motion and all voted unanimously in favor of the motion.

**7. Any Other Business**

Mr. Eller noted a large development adjacent to municipal borders which was going before the Buncombe County Board of Adjustment for development review.

**8. Adjournment.**

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**Bob Pace, Chair**  
**Planning and Zoning Board**

**ATTEST:**

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**James W. Eller**  
**Planning Director / Town Clerk**

**TOWN OF WEAVERVILLE**  
**PLANNING AND ZONING BOARD AGENDA ITEM**

**Date of Meeting:** Tuesday, March 7, 2023

**Subject:** Text Amendments: Nonconforming Lots, Table of Dimensional Requirements, Mapping Standards

**Presenter:** Planning Director, Town Attorney

**Attachments:** Staff Reports, Proposed Ordinance

**Description:**

Nonconforming Lots:

The current goals of the Comprehensive Land Use Plan (CLUP), last updated in October 2022, call for the review of regulations for non-conforming lots. The goal of reviewing regulations for non-conforming lots was also given number 1 (highest) priority within the CLUP giving staff the direction to accomplish or address the stated goal within 12 months. A change in language related to nonconforming lots has been identified, named for correction and discussed at a previous meeting.

Table of Dimensional Requirements:

The current goals of the Comprehensive Land Use Plan (CLUP), last updated in October 2022, call for an ongoing review of zoning regulations. The goal of reviewing zoning regulations was also given number 2 (medium) priority within the CLUP giving staff the direction to accomplish or address the stated goal within 24 months. It has been the practice of staff to bring forth technical changes when such necessary revisions to the zoning ordinance are required. An inconsistency in the table of dimensional requirements has been identified, named for correction and discussed at a previous meeting.

Mapping Standards:

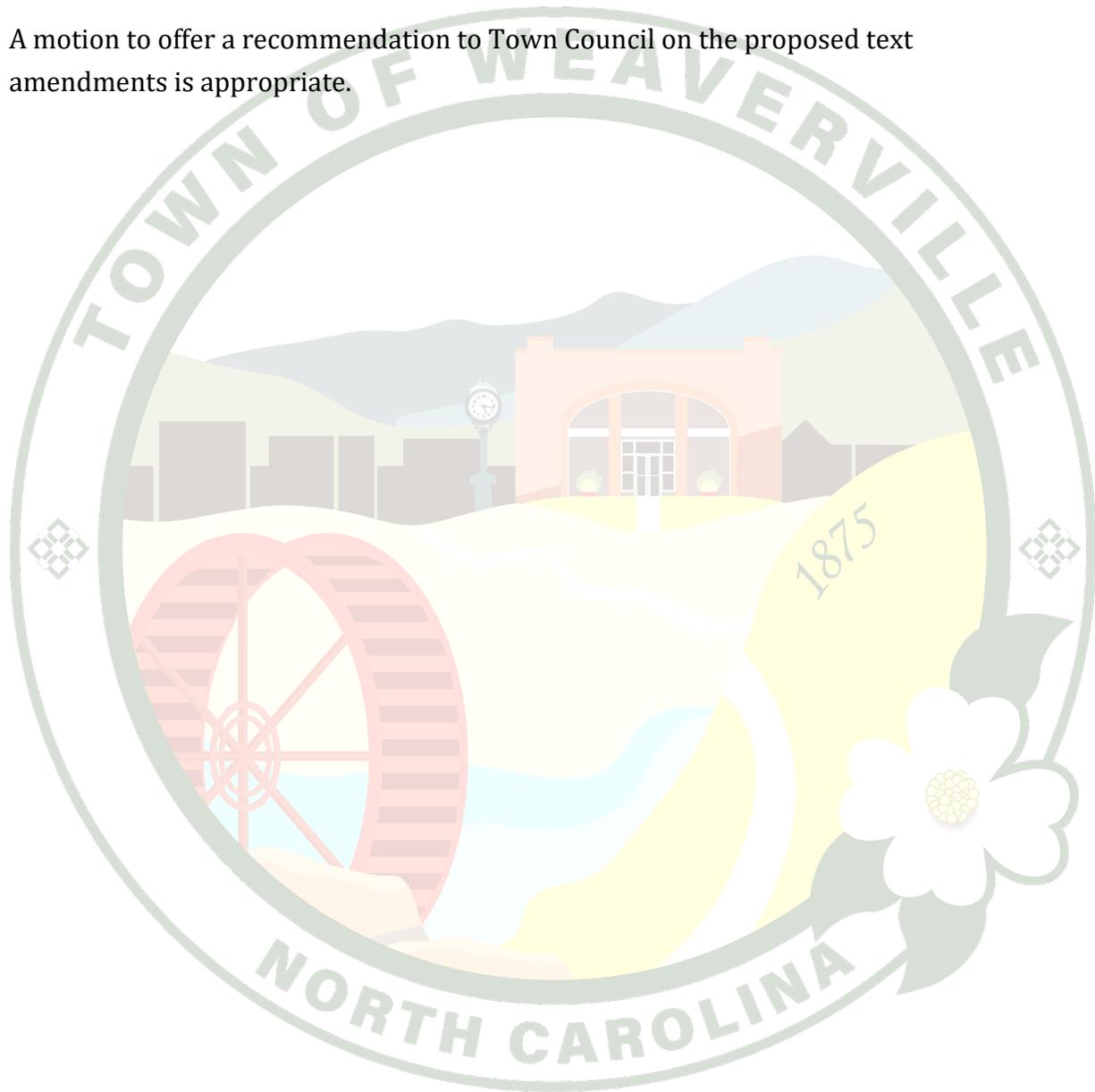
The current goals of the Comprehensive Land Use Plan (CLUP), last updated in October 2022, call for an ongoing review of zoning regulations. The goal of reviewing zoning regulations was also given number 2 (medium) priority within the CLUP giving staff the direction to accomplish or address the stated goal within 24 months. It has been the practice of staff to bring forth technical changes when such necessary revisions to the zoning ordinance are required.

Under current regulations the zoning administrator has the authority to require information in order to establish code compliance. For large development approvals, such as multifamily or commercial proposals, information substantially similar to major subdivisions is required in order to ensure compliance with various sections of town

ordinance and relevant federal and state laws, rules and regulations. A direct link to the mapping standards contained within Part II Subdivision Regulations is desired in order to remove the discretion of staff and provide a list for developers to follow for information to be provided.

**Action Requested:**

A motion to offer a recommendation to Town Council on the proposed text amendments is appropriate.



Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

### **Comprehensive Land Use Plan Stated Goal and Background Information**

The current goals of the Comprehensive Land Use Plan (CLUP), last updated in October 2022, call for the review of regulations for non-conforming lots. The goal of reviewing regulations for non-conforming lots was also given number 1 (highest) priority within the CLUP giving staff the direction to accomplish or address the stated goal within 12 months.

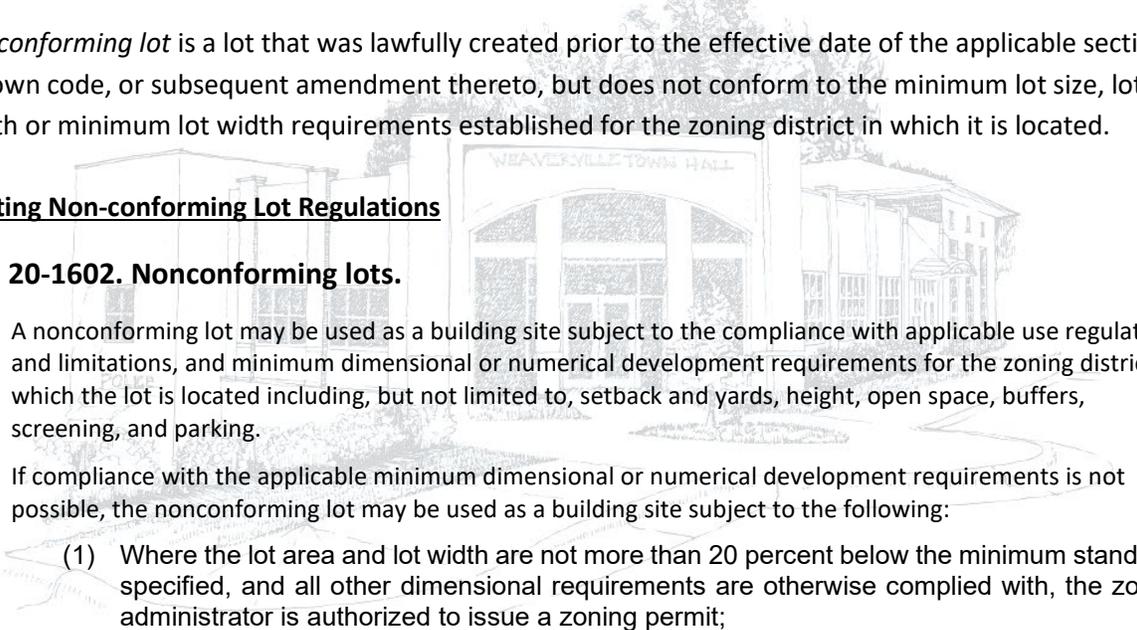
### **Definition of Non-conforming Lot**

*Lot of record means a lot which is part of a subdivision, a plat of which has been recorded in the office of the register of deeds of Buncombe County prior to the adoption of this chapter, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this chapter.*

*Nonconforming lot is a lot that was lawfully created prior to the effective date of the applicable sections of town code, or subsequent amendment thereto, but does not conform to the minimum lot size, lot depth or minimum lot width requirements established for the zoning district in which it is located.*

### **Existing Non-conforming Lot Regulations**

#### **Sec. 20-1602. Nonconforming lots.**

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- (a) A nonconforming lot may be used as a building site subject to the compliance with applicable use regulations and limitations, and minimum dimensional or numerical development requirements for the zoning district in which the lot is located including, but not limited to, setback and yards, height, open space, buffers, screening, and parking.
  - (b) If compliance with the applicable minimum dimensional or numerical development requirements is not possible, the nonconforming lot may be used as a building site subject to the following:
    - (1) Where the lot area and lot width are not more than 20 percent below the minimum standards specified, and all other dimensional requirements are otherwise complied with, the zoning administrator is authorized to issue a zoning permit;
    - (2) Where the lot area and lot width are more than 20 percent below the minimum standards specified in this chapter or other dimensional requirements cannot be met, the board of adjustment is authorized to consider requests for variances of such dimensional and numerical requirements as shall conform as closely as possible to the required dimensions.
  - (c) If a lot is nonconforming in that it does not have street access as described in Code section 20-3208(g), a building can be constructed on such lot if the applicant can provide evidence of a recorded legal access to a publicly maintained street or roadway which will support actual vehicular access to the lot.

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

**Enforcement of Existing Regulations**

As you will have seen in the existing regulations there is an arbitrary threshold of 20% below the minimum dimensional standards required by the zoning district in which the property is located. Where a nonconformity at or below 20% is experienced, staff has the authority to issue permits for a nonconforming lot to be built upon. Where a nonconformity of more than 20% is experienced a variance from the Board of Adjustment must be achieved to convert the nonconforming lot to a buildable lot.

For example, in the R-1 zoning district where a minimum lot width of 100 feet is required.

Required Lot Width	Lot Width Present	Authority
100 ft.	75 ft.	Board of Adjustment
100 ft.	80 ft.	Staff

When these nonconforming lots have gone to the Board of Adjustment for a variance, each has had a variance granted.

**Potential Additional Regulation**

It is more common than not in other ordinances to have a requirement that nonconforming lots under common ownership be combined with one another to create a conforming lot. With this additional requirement the number of nonconforming lots is reduced. For example:

*A nonconforming vacant lot shall not be developed if it can be combined with an adjoining lot owned by the same person on or after the effective date of these regulations in order to create a single lot. For the purposes of this section, adjoining shall be deemed to mean the sharing of one or more common lot lines.*

Or:

*Where a nonconforming lot abuts another lot of record, whether conforming or nonconforming, held in the same ownership at or subsequent to the adoption of these regulations, such lots shall be combined or recombined as necessary to form a conforming lot or lots and shall not be subdivided thereafter except in compliance with the requirements of this Chapter.*

Town of Weaverville, North Carolina  
**Staff Report: Non- Conforming Lots**

Prepared November, 2022

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

**Intent of Regulation Revision**

Staff is seeking a conversation with the Board revolving around how to simplify the regulations applicable to nonconforming lots with a specific interest on the Board’s opinion related to the 20% threshold for variances and a potential additional regulation requiring the combination of nonconforming lots under common ownership in order to create a conforming lot.



Town of Weaverville, North Carolina  
**Staff Report: Technical Change,**  
**Table of Dimensional Requirements**

Prepared January, 2023

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

**Comprehensive Land Use Plan Stated Goal and Background Information**

The current goals of the Comprehensive Land Use Plan (CLUP), last updated in October 2022, call for an ongoing review of zoning regulations. The goal of reviewing zoning regulations was also given number 2 (medium) priority within the CLUP giving staff the direction to accomplish or address the stated goal within 24 months. It has been the practice of staff to bring forth technical changes when such necessary revisions to the zoning ordinance are required.

**Existing Table of Dimensional Requirements**

**Sec. 20-3206. Table of dimensional requirements.**

Zoning District	R-1	R-2	R-3	R-12	C-1	C-2	I-1	MHO <sup>11</sup>
Minimum Lot Area (sq. Ft.)	10,000 <sup>2,7</sup>	7,500 <sup>1, 2,3,4,7</sup>	5,445 <sup>1,2,3,4,7</sup>	7,500 <sup>4,7, 8</sup>	0	0	0	5,445 <sup>1,2,3,4,7</sup>
Minimum Lot Width(ft.)	100	75	75	75	0	50	0	75
Minimum Front Yard (ft.)	30	30	30	30	0	0	0	30
Major Thoroughfare	30	30	30	30 <sup>5</sup>	0	60	35 <sup>5</sup>	30
Minor Thoroughfare	30	30	30	30 <sup>5</sup>	0	25 <sup>5</sup>	35 <sup>5</sup>	30
With Parking in Front	-	-	-	-	-	60	-	-
Without Parking in Front	-	-	-	-	-	40	-	-
Minimum Side Yard (ft.) Abutting Residential District	10	10 <sup>6</sup>	10 <sup>6</sup>	10 <sup>6</sup>	0	30	40	10 <sup>6</sup>
Minimum Side Yard (ft.) Abutting Commercial or Industrial District	10	10 <sup>6</sup>	10 <sup>6</sup>	10 <sup>6</sup>	0	0	40	10 <sup>6</sup>
Minimum Rear Yard (ft.) Abutting Residential District	10	10 <sup>6</sup>	10 <sup>6</sup>	10 <sup>6</sup>	0	30	40	10 <sup>6</sup>
Minimum Rear Yard (ft.) Abutting Commercial or Industrial District	10	10 <sup>6</sup>	10 <sup>6</sup>	10 <sup>6</sup>	0	0	40	10 <sup>6</sup>
Height Limit (ft.)	35	35	35	45 and no more than 3 stories	Note 10	75	75	18
Buffer if Abutting a Residential District (ft.)	0	0	0	20	Note 9	20	20	0

The following notes apply to the Table of Dimensional Requirements set out above:

# Town of Weaverville, North Carolina

## Staff Report: Technical Change,

### Table of Dimensional Requirements

Prepared January, 2023

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

See sections on dwelling setbacks (Code section 20-3208(h) and (i)), nonconforming lots (Code section 20-1602); and right-of-way (Code section 20-3208(b)).

Additional Notes corresponding to the table:

1. 10,000 square feet if no public sewerage is available.
2. 20,000 square feet if neither public water or sewerage is available.
3. 5,000 additional square feet for each additional dwelling unit when public water and/or sewer is available.
4. 10,000 additional square feet for each additional dwelling unit when public water and/or sewer is not available.
5. 40 feet if property directly across the right-of-way is zoned residential.
6. 15 feet for duplexes; 25 feet for all other multi-family dwelling units.
7. Additional square footage may be required by the authority having jurisdiction over private water and/or sewerage systems located on individual lots.
8. 3,280 additional square feet for each additional dwelling unit when public water and/or sewer is available.
9. Where a lot in the C-1 district abuts a residential district, either directly or across a street (on the side of the C-1 lot), and any use is hereafter established on the C-1 lot by the construction of a new building thereon or by the enlargement of an existing building on the C-1 lot which enlargement exceeds by 25 percent the floor area of the existing building, such building and such lot shall be screened from the lot in the residential district by a vegetative screen on the side of the building or lot facing the residential lot shall require screening. Exceptions to this buffering requirement in C-1 are as follows:
  - (a) These provisions shall not apply to any lot which is used for a use which would be permitted in the adjacent residentially zoned district.
  - (b) The vegetative screen required shall be omitted along the street where the C-1 lot fronts.
  - (c) The board of adjustment shall have the authority to alter or eliminate the required vegetative screen where the lot requiring the vegetative screen and the adjacent lot zoned residential are in single ownership or upon receipt of a notarized statement waiving or modifying the screening provisions of this section, between the owner of the lot requiring the vegetative screen and the owner of the adjacent lot zoned residential. Any such agreements shall be attached to the application for zoning permit and retained by the town.
10. In the C-1 district, every building or structure hereafter erected or structurally altered to exceed 35 feet in height, shall, above such 35-foot height, be set back from the front line of the property on which the building or structure is located on the ratio of one set back foot for each two-foot rise above such 35-foot height. In no case shall the height be greater than 57 feet (which would require a setback of 11 feet).

Where more than one-half of the street frontage in a particular street block is zoned residential and the remaining frontage on the same side of that street block is zoned C-1, the height regulations

# Town of Weaverville, North Carolina

## Staff Report: Technical Change,

### Table of Dimensional Requirements

Prepared January, 2023

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

for the residential district shall apply to the lots zoned for commercial uses on that side of the street block.

- The dimensional standards for the MHO district only apply to manufactured homes. To the extent that a dimensional requirement for a manufactured home in the MHO district is inconsistent with the corresponding dimensional requirement of the underlying use district, the more restrictive dimensional requirement shall apply to that manufacture home.

#### Intent of Regulation Revision

Staff is seeking a conversation with the Board revolving around footnotes 3 and 8 which set the additional minimum lot area for zoning districts that permit multifamily residential units. These ratios are what set the density standard applicable to the particular residential zoning district. For example:

Zoning District	Min. Lot Area (1 unit)	Min. Lot Area (ad. Unit)	Units Per Acre ( <u>1 acre</u> )
R-2	7,500 sq. ft.	5,000 sq. ft.	8
R-3	5,445 sq. ft.	5,000 sq. ft.	8
R-12	7,500 sq. ft.	3,280 sq. ft.	12

It has long been the understanding and interpretation that the R-2 and R-3 zoning districts will support 8 units per acre while the R-12 zoning district will support 12 units per acre. However, a more strict interpretation of the table will allow for more units per acre, especially on large parcels of land as the footnotes specifically read “for each additional dwelling unit.” For example:

Zoning District	Min. Lot Area (1 unit)	Min. Lot Area (ad. Unit)	Units Per Acre ( <u>20 acres</u> )
R-2	7,500 sq. ft.	5,000 sq. ft.	8.7
R-3	5,445 sq. ft.	5,000 sq. ft.	8.7
R-12	7,500 sq. ft.	3,280 sq. ft.	13.2

Zoning District	Units at 1 Acre	Units at 20 Acres (12 units per acre)	Units at 20 Acres (Min. sq. ft. in Table)
R-12	12	240	264

If it is the intent of the land use regulations to permit only 8 units per acre in R-2 and R-3 and 12 units per acre in R-12 staff believes an amendment to the table of dimensional requirements is necessary as a challenge to this long held intent is unlikely to pass scrutiny. Again, if this is the intent, a simple amendment to footnotes 3 and 8 will solidify this intent. For example:

Town of Weaverville, North Carolina  
**Staff Report: Technical Change,**  
**Table of Dimensional Requirements**

Prepared January, 2023

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

- 3. 5,000 additional square feet for each additional dwelling unit when public water and/or sewer is available not to exceed 8 units per acre.
- 8. 3,280 additional square feet for each additional dwelling unit when public water and/or sewer is available not to exceed 12 units per acre.



# Town of Weaverville, North Carolina

## Staff Report: Technical Change - Zoning Permit Required, Mapping Standards

Prepared March, 2023

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

### Comprehensive Land Use Plan Stated Goal and Background Information

The current goals of the Comprehensive Land Use Plan (CLUP), last updated in October 2022, call for an ongoing review of zoning regulations. The goal of reviewing zoning regulations was also given number 2 (medium) priority within the CLUP giving staff the direction to accomplish or address the stated goal within 24 months. It has been the practice of staff to bring forth technical changes when such necessary revisions to the zoning ordinance are desired.

### Existing Ordinance, Zoning Permit Required

#### **Sec. 20-3110. Zoning permit required.**

A zoning permit shall be obtained from the zoning administrator before beginning any construction on any lot within the town's zoning jurisdiction. No lot shall be graded so as to alter its contour and no building or other structure shall be erected, moved, added to, or structurally altered prior to the issuance of said zoning permit. In no event will the zoning administrator approve any permit for the grading of any lot or the construction or alteration of any building if such building, or its intended use would be in violation of any of the provisions of this chapter, or if the contour of any lot would be altered or graded in violation of the screening and buffering requirements of this chapter.

- (a) *Application for permit.* All applications for zoning permits shall be accompanied by such information as the zoning administrator determines as needed for a full review of the request. The zoning administrator shall ensure that all applications are compliant with the applicable sections of this chapter prior to issuance of permit or transmittal to the decision-making board.
- (b) *Issuance of zoning permit.* Prior to issuing a zoning permit the zoning administrator shall first review the application and supporting documentation to determine compliance with all of the applicable requirements of this chapter. If the plans show that the proposed construction meets all of the requirements of this chapter the zoning administrator shall, prior to the issuance of the zoning permit, make an inspection of the site to determine that the actual location of all existing or proposed buildings or structures, parking areas, buffer strips etc. are located as shown on the plans. If the services of the town engineer or of a registered land surveyor are required to assure that the actual locations, on the ground, are as shown on the plans, the cost of this service shall be paid by the applicant prior to issuance of the zoning permit. Any such charges shall be in addition to the normal charges for such zoning permit. After the zoning administrator finds that the plans and on-site locations meet the requirements of this chapter, the administrator shall issue a zoning permit stating that the proposed construction, if built as located, meets the provisions of this chapter and that the applicant can apply for building and other permits. When reviewing proposed uses of land related to new commercial, industrial or multi-family residential development, or uses which require the issuance of or an amendment to a special use permit or the adoption of a conditional zoning district, the planning director shall coordinate an evaluation of the proposed development with a technical review committee consisting of members of individual municipal departments, including but not limited to the fire marshal and public works director or their designees, who may offer expertise on the proposed development. The technical review committee shall offer an opinion on the proposed development to the planning board and town council

# Town of Weaverville, North Carolina

## Staff Report: Technical Change - Zoning Permit Required, Mapping Standards

Prepared March, 2023

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

based upon the committee's findings or compliance with various sections of municipal ordinance and relevant federal and state laws, rules and regulations.

While it may be obvious that a proposed building or structure to be located on a large tract of land meets the setback requirements by simple observation, actual field measurements would be required to determine compliance on a typical residential lot. All such measurements must be made from actual property or right-of-way lines using property corner or right-of-way markers. It may be assumed that the paved portion of any street or alley is in the center of the right-of-way for this purpose only if the right-of-way of record cannot be otherwise established by actual surveys.

- (c) *County permits required.* After the zoning permit is approved and issued, the applicant shall apply to the Buncombe County Permits and Inspections Department, or any successor thereto, for building, plumbing, electrical or other required permits. If such permits are not issued within 60 days after issuance of the zoning permit, the zoning permit shall become invalid.
- (d) *Construction progress.* If no substantial construction progress has been made within 180 calendar days of the date of the issuance of the zoning permit, or if work is suspended for 365 calendar days, the zoning permit shall become invalid; provided, however, the zoning administrator may extend the time for substantial construction progress to be made by up to 180 calendar days, for good cause shown. This provision shall not be applicable, however, for time periods for projects in conditional districts, which shall be governed by Code section 3203 or special use permits, which shall be governed by Code section 20-3204.

### Intent of Regulation Revision

Under current regulations the zoning administrator has the authority to require information in order to establish code compliance. For large development approvals, such as multifamily or commercial proposals, information substantially similar to major subdivisions is required in order to ensure compliance with various sections of town ordinance and relevant federal and state laws, rules and regulations. A direct link to the mapping standards contained within Part II Subdivision Regulations is desired in order to remove the discretion of staff and provide a list for developers to follow for information to be provided.

**ORDINANCE AMENDING WEAVERVILLE TOWN CODE CHAPTER 20  
CONCERNING NONCONFORMING LOTS AND CALCULATION OF DENSITY,  
AND APPLICABILITY OF MAPPING STANDARDS**

**WHEREAS**, the Planning Board met January 3, 2023, and March 7, 2023, in order to discuss certain Code amendments concerning nonconforming lots, the calculation of density, and the applicability of mapping standards to all required preliminary plans and final plats;

**WHEREAS**, the review of nonconforming lot regulation was given a high priority and the Planning Board has found that the proposed code amendment concerning nonconforming lots is consistent with the Town's comprehensive land use plan, reasonable, and in the best interest of the public in that such amendments provide for more consistency in the handling nonconforming lots which provides more orderly development;

**WHEREAS**, the Table of Dimensional Requirements as written in Code Section 20-3206 allows for a density calculation that is higher than stated for projects involving multiple dwelling units with public water and sewer available, and the Planning Board found that an amendment to that section to specifically state a maximum density is consistent with the Town's comprehensive land use plan, reasonable and in the best interest of the public in that it more clearly defines the regulation and its intent;

**WHEREAS**, the mapping standards for preliminary plans and final plats are contained within Part 2 of Chapter 20 governing subdivisions and a clarification that the mapping standards apply to all required preliminary plans, construction plans, and final plats is needed, and the Planning Board found that an amendment to add a general provision concerning mapping standards is consistent with the Town's comprehensive land use plan, reasonable and in the best interest of the public in that it clarifies that mapping standards apply to all projects where preliminary plans and/or final plats are required;

**WHEREAS**, after proper notice the Town Council held a public hearing on \_\_\_\_\_, in order to receive input from the public on these amendments;

**NOW, THEREFORE, BE IT ORDAINED** by Town Council of the Town of Weaverville, North Carolina, as follows:

1. The findings and recommendations of the Planning Board are hereby incorporated by reference and adopted by Town Council, including specifically a finding that the amendments approved herein are consistent with the Town's adopted comprehensive land use plan.
2. Code Section 20-1602 is hereby amended as follows with the added language shown as underlined and deleted language, if any, is shown with strike-throughs:

**Sec. 20-1602. Nonconforming lots.**

- (a) Except as provided herein, a A nonconforming lot may be used as a building site subject to the compliance with applicable use regulations and limitations, and minimum dimensional or numerical development requirements for the zoning district in which the lot is located including, but not limited to, minimum lot area and width, setback and yards, height, open space, buffers, screening, and parking. The minimum lot width for nonconforming lots shall be the width of the lot as shown on a recorded plat that pre-dates zoning regulations if such width is 50 feet or more. If the lot width as originally platted is less than 50 feet and the property adjoins another lot under common ownership, then such lots must be combined to meet a minimum of 50 feet in lot width.
  - (b) If compliance with the applicable minimum dimensional or numerical development requirements is not possible, the nonconforming lot may be used as a building site subject to the following:
    - (1) Where the lot area and/or lot width are not more than 20 percent below the minimum standards specified, and all other dimensional requirements are otherwise complied with, the zoning administrator is authorized to issue a zoning permit;
    - (2) Where the lot area and/or lot width are more than 20 percent below the minimum standards specified in this chapter or other dimensional requirements cannot be met, the board of adjustment is authorized to consider requests for variances of such dimensional and numerical requirements as shall conform as closely as possible to the required dimensions.
  - (c) If a lot is nonconforming in that it does not have street access as described in Code section 20-3208(g), a building can be constructed on such lot if the applicant can provide evidence of a recorded legal access to a publicly maintained street or roadway which will support actual vehicular access to the lot.
3. Code Section 20-3206 is hereby amended as follows with the added language shown as underlined and deleted language, if any, is shown with strike-throughs:

**Sec. 20-3206. Table of dimensional requirements.**

Zoning District	R-1	R-2	R-3	R-12	C-1	C-2	I-1	MHO <sup>11</sup>
Minimum Lot Area (sq. Ft.)	10,000 <sup>2,7</sup>	7,500 <sup>1, 2,3,4,7</sup>	5,445 <sup>1,2,3,4,7</sup>	7,500 <sup>4,7, 8</sup>	0	0	0	5,445 <sup>1,2,3,4,7</sup>
Minimum Lot Width(ft.)	100	75	75	75	0	50	0	75
Minimum Front Yard (ft.)	30	30	30	30	0	0	0	30
Major Thoroughfare	30	30	30	30 <sup>5</sup>	0	60	35 <sup>5</sup>	30
Minor Thoroughfare	30	30	30	30 <sup>5</sup>	0	25 <sup>5</sup>	35 <sup>5</sup>	30
With Parking in Front	-	-	-	-	-	60	-	-
Without Parking in Front	-	-	-	-	-	40	-	-
Minimum Side Yard (ft.) Abutting Residential District	10	10 <sup>6</sup>	10 <sup>6</sup>	10 <sup>6</sup>	0	30	40	10 <sup>6</sup>
Minimum Side Yard (ft.) Abutting Commercial or Industrial District	10	10 <sup>6</sup>	10 <sup>6</sup>	10 <sup>6</sup>	0	0	40	10 <sup>6</sup>

Minimum Rear Yard (ft.) Abutting Residential District	10	10 <sup>6</sup>	10 <sup>6</sup>	10 <sup>6</sup>	0	30	40	10 <sup>6</sup>
Minimum Rear Yard (ft.) Abutting Commercial or Industrial District	10	10 <sup>6</sup>	10 <sup>6</sup>	10 <sup>6</sup>	0	0	40	10 <sup>6</sup>
Height Limit (ft.)	35	35	35	45 and no more than 3 stories	Note 10	75	75	18
Buffer if Abutting a Residential District (ft.)	0	0	0	20	Note 9	20	20	0

The following notes apply to the Table of Dimensional Requirements set out above:

See sections on dwelling setbacks (Code section 20-3208(h) and (i)), nonconforming lots (Code section 20-1602); and right-of-way (Code section 20-3208(b)).

Additional Notes corresponding to the table:

1. 10,000 square feet if no public sewerage is available.
2. 20,000 square feet if neither public water or sewerage is available.
3. 5,000 additional square feet for each additional dwelling unit when public water and/or sewer is available, but in no event may density exceed 8 units per acre.
4. 10,000 additional square feet for each additional dwelling unit when public water and/or sewer is not available.
5. 40 feet if property directly across the right-of-way is zoned residential.
6. 15 feet for duplexes; 25 feet for all other multi-family dwelling units.
7. Additional square footage may be required by the authority having jurisdiction over private water and/or sewerage systems located on individual lots.
8. 3,280 additional square feet for each additional dwelling unit when public water and/or sewer is available, but in no event may density exceed 12 units per acre.
9. Where a lot in the C-1 district abuts a residential district, either directly or across a street (on the side of the C-1 lot), and any use is hereafter established on the C-1 lot by the construction of a new building thereon or by the enlargement of an existing building on the C-1 lot which enlargement exceeds by 25 percent the floor area of the existing building, such building and such lot shall be screened from the lot in the residential district by a vegetative screen on the side of the building or lot facing the residential lot shall require screening. Exceptions to this buffering requirement in C-1 are as follows:
  - (a) These provisions shall not apply to any lot which is used for a use which would be permitted in the adjacent residentially zoned district.
  - (b) The vegetative screen required shall be omitted along the street where the C-1 lot fronts.
  - (c) The board of adjustment shall have the authority to alter or eliminate the required vegetative screen where the lot requiring the vegetative screen and the adjacent lot zoned residential are in single ownership or upon receipt of a notarized statement

waiving or modifying the screening provisions of this section, between the owner of the lot requiring the vegetative screen and the owner of the adjacent lot zoned residential. Any such agreements shall be attached to the application for zoning permit and retained by the town.

10. In the C-1 district, every building or structure hereafter erected or structurally altered to exceed 35 feet in height, shall, above such 35-foot height, be set back from the front line of the property on which the building or structure is located on the ratio of one set back foot for each two-foot rise above such 35-foot height. In no case shall the height be greater than 57 feet (which would require a setback of 11 feet).

Where more than one-half of the street frontage in a particular street block is zoned residential and the remaining frontage on the same side of that street block is zoned C-1, the height regulations for the residential district shall apply to the lots zoned for commercial uses on that side of the street block.

11. The dimensional standards for the MHO district only apply to manufactured homes. To the extent that a dimensional requirement for a manufactured home in the MHO district is inconsistent with the corresponding dimensional requirement of the underlying use district, the more restrictive dimensional requirement shall apply to that manufacture home.

4. Code Section 20-1120 is hereby added to Article I of Part 1 of Code Chapter 20 as follows:

Sec. 20-1120. – Mapping Standards.

Depending on the type and scope of development, the mapping standards set forth in Article V of Part 2 of this Chapter shall apply to all preliminary plans, construction plans, and final plats required by this Chapter.

5. It is the intention of Town Council that the sections and paragraphs of this Ordinance are severable and if any section or paragraph of this Ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining paragraphs or sections of this Ordinance, since they would have been enacted by Town Council without the incorporation in this Ordinance of any such unconstitutional or invalid section or paragraph.
6. These amendments shall be effective immediately upon adoption and codified.

**ADOPTED THIS** the \_\_\_\_ day of \_\_\_\_\_, 2023, by a vote of \_\_\_ in favor and \_\_\_ against.

---

**PATRICK FITZSIMMONS**, Mayor

**ATTESTED BY:**

---

**JAMES ELLER**, Town Clerk

**APPROVED AS TO FORM:**

---

**JENNIFER O. JACKSON**, Town Attorney

**TOWN OF WEAVERVILLE**  
**PLANNING BOARD AGENDA ITEM**

**Date of Meeting:** Tuesday, February 7, 2023  
**Subject:** Table of Uses  
**Presenter:** Planning Director and Town Attorney  
**Attachments:** Table of Uses

**Description:**

The current goals of the Comprehensive Land Use Plan (CLUP), last updated in October 2022, call for a comprehensive review of the table of uses. This goal was also given number 1 (highest) priority within the CLUP giving staff the direction to accomplish or address the stated goal within 12 months.

The table of uses, which establishes what uses are permissible in each zoning district and the development review process for the use and district, was created in 2017 and has only experienced minor modifications since adoption. It is good practice to comprehensively review the table at certain points in order to ensure that the table is operating as desired and to keep the table up to date with new uses which may not be properly enumerated.

Some uses, such as group care facilities, manufactured housing, alcohol sales and telecommunication towers have statutory limitations which staff can speak to if necessary.

**Action Requested:**

Staff is seeking a conversation with the Board revolving around the performance of the table of uses.

**Items for consideration:**

- Are there new uses which have not been properly identified and defined?
- Are the number of current zoning districts adequate to differentiate types of development?
- Is there a use currently not permitted in a particular district which should be?
- Is there a use in a zoning district which should not be permitted in that location? If so, is there a desire to phase out the use in the district?
- Compliance with Religious Land Use and Institutionalized Persons Act.

**Sec. 20-3205. Table of uses.**

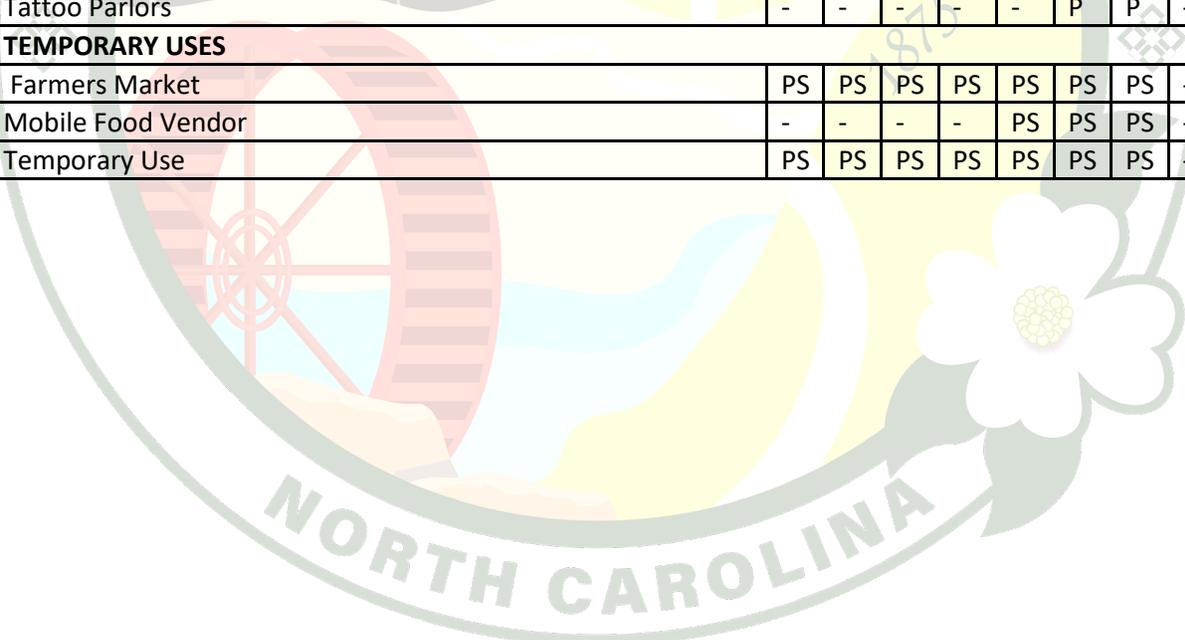
The following notes shall be applicable to the Table of Uses established herein.

- (1) Additional standards for those uses identified on the Table of Uses as "permitted with standards" are found in article III of part III of this chapter.
- (2) If a proposed use can't be found on the table of uses herein established or is not specifically defined herein, then the zoning administrator shall make a determination on which use most closely resembles the proposed use and shall apply those regulations and restrictions. Such determination may be made as a formal interpretation, or as part of an issuance or denial of a zoning permit or a notice of violation. The zoning administrator's determination is subject to an appeal of an interpretation which shall be heard by the board of adjustment.
- (3) The abbreviations and symbols shown in the Table of Uses have the following meanings:  
 "C" = Conditional District required  
 "P" = Permitted  
 "PS" = Permitted with Standards  
 "-" = Not Permitted

USES	R-1	R-2	R-3	R-12	C-1	C-2	I-1	MHO
<b>RESIDENTIAL</b>								
Dwelling - Single Family	P	P	P	-	-	-	-	-
Dwelling - Duplex	-	P	P	P	-	-	-	-
Dwelling - Multifamily (4 or fewer units/building)	-	P	P	P	-	-	-	-
Dwelling - Multifamily (more than 4 units/building)	-	-	PS	PS	-	-	-	-
Dwelling - Secondary	PS	PS	PS	-	-	-	-	-
Family Care Home (6 or fewer residents)	PS	PS	PS	-	-	-	-	-
Child Care Home (6 or fewer children)	PS	PS	PS	-	-	-	-	-
Home Occupation	PS	PS	PS	PS	-	-	-	-
Manufactured Home	-	-	-	-	-	-	-	PS
Manufactured Home Park	-	-	-	-	-	-	-	-
Recreational Vehicle	-	-	-	-	-	-	-	-
Recreational Vehicle Park, Campground	-	-	-	-	-	C	C	-
Bed & Breakfast	P	P	P	-	-	-	-	-
Hotel, Motel, Inn	-	-	-	-	C	C	C	-
<b>OFFICE / SERVICE</b>								
Animal Services, Veterinary Clinic	-	-	-	-	P	P	P	-
Automated Teller Machines	-	-	-	P	P	P	P	-
Automobile Services, Gas Station	-	-	-	-	P	P	P	-
Automobile Services, Repair	-	-	-	-	PS	PS	PS	-
Banks, Credit Unions, Financial Services	-	-	-	-	PS	P	P	-
Child Care Center (more than 6)	-	-	-	-	C	PS	PS	-
Community Service Organization	-	-	-	-	-	P	P	-
Equipment Rental (Exterior Storage)	-	-	-	-	-	-	P	-

Equipment Rental (Interior Storage)	-	-	-	-	-	P	P	-
Funeral Home	-	-	-	-	P	P	P	-
Group Care Facility (more than 6 residents)	-	-	-	-	C	P	P	-
Government Services	C	C	C	C	C	P	P	-
Kennels	-	-	-	-	-	PS	PS	-
Medical Services - Clinic, Urgent Care Center, Hospital	-	-	-	-	-	P	P	-
Medical Services - Doctor Office	-	-	-	-	P	P	P	-
Personal Services	-	-	-	-	P	P	P	-
Post Office	-	-	-	-	-	P	P	-
Professional Services	-	-	-	-	P	P	P	-
Studio - Art, Dance Martial Arts, Music	-	-	-	-	P	P	P	-
<b>RETAIL / RESTAURANTS</b>								
Accessory Retail	-	-	-	-	P	P	P	-
Alcoholic Beverage Sales Store	-	-	-	-	P	P	P	-
Auto / Mechanical Parts Store	-	-	-	-	P	P	P	-
Bar / Tavern / Night Club	-	-	-	-	P	P	P	-
Drive-Thru Retail / Restaurant	-	-	-	-	-	P	P	-
General Retail (Under 5,000 sq. ft.)	-	-	-	-	P	P	P	-
General Retail (5,000 - 9,999 sq. ft.)	-	-	-	-	C	P	P	-
General Retail (10,000 - 24,999 sq. ft.)	-	-	-	-	C	PS	PS	-
General Retail (25,000 sq. ft. or more)	-	-	-	-	C	C	C	-
Multi-tenant Development (Under 25,000 sq. ft.)	-	-	-	-	C	PS	PS	-
Multi-tenant Development (25,000 sq. ft. or more)	-	-	-	-	C	C	C	-
Pawn Shop	-	-	-	-	-	P	P	-
Restaurant	-	-	-	-	P	P	P	-
Vehicle / Heavy Equipment Sales - Indoor	-	-	-	-	P	P	P	-
Vehicle / Heavy Equipment Sales - Outdoor	-	-	-	-	-	P	P	-
<b>ENTERTAINMENT / RECREATION</b>								
Amusements - Indoor	-	-	-	-	P	P	P	-
Amusements - Outdoor	-	-	-	-	-	P	P	-
Cultural or Community Facility	PS	PS	PS	PS	P	P	P	-
Recreation Facilities - Indoor	PS	PS	PS	PS	P	P	P	-
Recreation Facilities - Outdoor	PS	-						
Theater - Motion Picture	-	-	-	-	-	P	P	-
<b>MANUFACTURING / WHOLESALE / STORAGE</b>								
Manufacturing, Heavy	-	-	-	-	-	-	C	-
Manufacturing, Light	-	-	-	-	-	P	P	-
Manufacturing, Neighborhood	-	-	-	-	P	P	P	-
Metal Product Fabrication, Machine or Welding Shop, Auto Body Shop	-	-	-	-	-	-	P	-
Mini-Warehouses	-	-	-	-	-	-	P	-
Outdoor Storage Yard	-	-	-	-	-	-	C	-
Warehousing and Distribution - Exterior Storage	-	-	-	-	-	-	P	-
Warehousing and Distribution - Interior Storage	-	-	-	-	-	P	P	-

<b>CIVIC / INSTITUTIONAL</b>								
Cemeteries	-	-	-	-	-	-	C	-
Public Safety Facilities	C	C	C	C	C	P	P	-
Religious Institutions	C	C	C	C	C	C	C	-
Schools	C	C	C	C	C	C	C	-
<b>UTILITIES</b>								
Solar Collector System - Primary Use	-	-	-	-	-	-	PS	-
Wireless Telecommunication Facility - Stealth	PS	-						
Wireless Telecommunication Facility - Tower	-	-	-	-	-	PS	PS	-
<b>MISCELLANEOUS USES</b>								
Accessory Structures	PS	PS	PS	PS	P	P	P	-
Adult Establishment	-	-	-	-	-	C	C	-
Agriculture - Commercial	-	-	-	-	PS	PS	PS	-
Agriculture - Neighborhood	PS	-						
Crematories	-	-	-	-	-	-	C	-
Event Center	-	-	-	-	C	C	C	-
Gaming Terminals	-	-	-	-	-	PS	PS	-
Mixed-Use Building or Structure	-	-	-	PS	PS	PS	-	-
Noxious Uses	-	-	-	-	-	-	C	-
Solar Collector System - Roof Mounted - Accessory Use	P	P	P	P	P	P	P	P
Solar Collector System - Ground Mounted - Accessory Use	PS							
Tattoo Parlors	-	-	-	-	-	P	P	-
<b>TEMPORARY USES</b>								
Farmers Market	PS	-						
Mobile Food Vendor	-	-	-	-	PS	PS	PS	-
Temporary Use	PS	-						



**TOWN OF WEAVERVILLE**  
**PLANNING AND ZONING BOARD AGENDA ITEM**

**Date of Meeting:** Tuesday, March 7, 2023

**Subject:** Other Business

**Presenter:** Planning Director

**Attachments:** Rules of Procedure

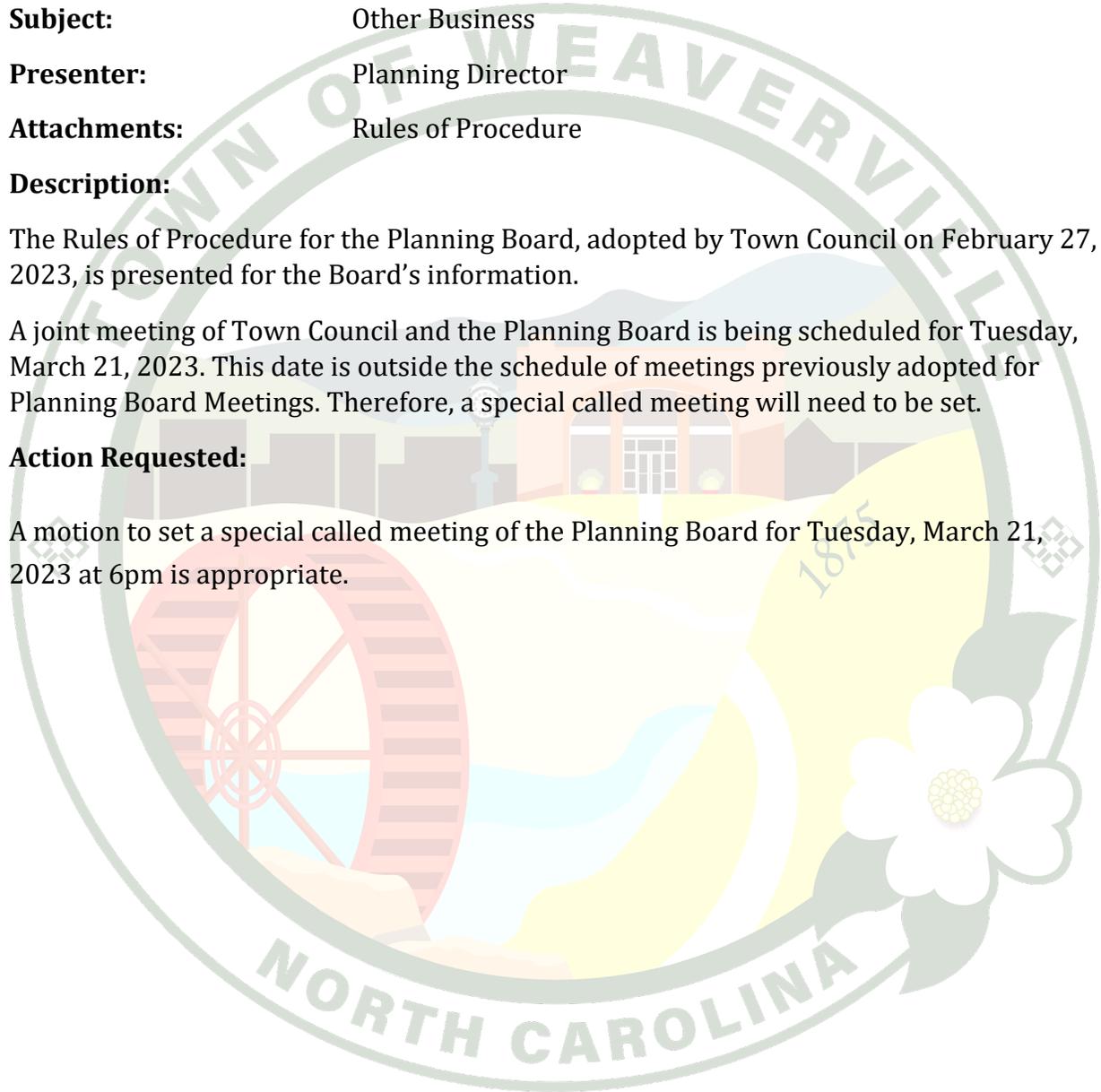
**Description:**

The Rules of Procedure for the Planning Board, adopted by Town Council on February 27, 2023, is presented for the Board's information.

A joint meeting of Town Council and the Planning Board is being scheduled for Tuesday, March 21, 2023. This date is outside the schedule of meetings previously adopted for Planning Board Meetings. Therefore, a special called meeting will need to be set.

**Action Requested:**

A motion to set a special called meeting of the Planning Board for Tuesday, March 21, 2023 at 6pm is appropriate.



# Rules of Procedure for the Weaverville Planning Board

## INDEX

Rule 1. Regular Meetings.....	2
Rule 2. Special and Recessed Meetings.....	2
(a) Special Meetings.....	2
(b) Recessed Meeting .....	2
Rule 3. Organizational Meeting.....	2
Rule 4. Agenda.....	2
(a) Proposed Agenda and Agenda Packet.....	2
(b) Adoption of the Agenda.....	3
(c) Open Meetings Requirements .....	3
Rule 5. Order of Business.....	3
Rule 6. Format for Review of Applications .....	4
Rule 7. Presiding Officer.....	4
Rule 8. Substantive Motions .....	5
Rule 9. Procedural Motions.....	5
Rule 10. Public Address to the Board.....	5
Rule 11. Public Hearings .....	6
Rule 12. Quorum.....	6
Rule 13. Duty to Vote .....	6
Rule 14. Conflicts of Interest.....	6
Rule 15. Appointments/Elections .....	7
Rule 16. Committees and Boards.....	7
Rule 17. Minutes.....	7
Rule 18. Amendment of the Rules .....	7
Rule 19. Reference to Robert’s Rules of Order .....	8
APPENDIX – PROCEDURAL MOTIONS.....	9

**Rule 1. Regular Meetings** – The Board should adopt a regular schedule of meetings for each calendar year. The regular schedule shall indicate the date, time and location of the Board’s regular meetings and shall be filed with the Town Clerk and the Secretary of the Planning Board. In the event that the Board fails to adopt a regular schedule of meetings, then the meeting shall be held on the first Tuesday of each month within Council Chambers of the Weaverville Town Hall located at 30 South Main Street, Weaverville, North Carolina, and shall begin at 6:00 p.m.

## **Rule 2. Special and Recessed Meetings –**

### **(a) Special Meetings.**

The chair may at any time call a special meeting of the Board or a special meeting may be called or scheduled by vote of the Board in open session during another duly called meeting. At least 48 hours before a special meeting is held, written notice of the meeting stating its date, time, place, and subjects to be considered shall be (1) given to each Board member; (2) posted on the Town’s principal bulletin board for legal notices or, if none, at the door of the Board’s usual meeting room; and (3) mailed or delivered to each newspaper, wire service, radio station, and person who has filed a written request for notice with the Board’s Secretary.

**(b) Recessed Meeting.** A properly called regular or special meeting may be recessed to a time and place certain by a motion made and adopted in open session during the regular or special meeting. The motion shall state the date, time and place when the meeting will reconvene. No further notice need be given of such a recessed session of a properly called regular or special meeting.

**Rule 3. Organizational Meeting** – On the date and time of the first regular meeting in September, the newly appointed members shall take and subscribe the oath of office as the first order of business. As the second order of business, the Board shall elect a chair and vice-chair, if he or she is not otherwise selected, using one of the nomination and voting procedures set out in [Rule 15](#). Adoption of a regular schedule of meetings for the upcoming calendar year would be appropriate at the Organizational Meeting, or as soon thereafter as the Board can take such action.

## **Rule 4. Agenda –**

**(a) Proposed Agenda and Agenda Packet.** The Board’s Secretary shall prepare a proposed agenda for each meeting. A request to have an item of business placed on the agenda must be received at least 10 working days before the meeting with the required fee, if any. Any Board member may, by a timely request, have an item placed on the proposed agenda. An agenda packet shall be prepared that

includes, for each item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce. Each Board member shall receive a copy of the proposed agenda and the agenda packet at least 3 business days prior to each regular meeting. The agenda shall be made available for public inspection and/or distribution when it is distributed to the Board members and agenda packets made available upon request. The Zoning Administrator/Town Planner has the authority to remove from the agenda any submission for review which, in his or her determination, does not meet the minimum requirements of Town Code.

(b) **Adoption of the Agenda.** As its first order of business at each meeting the Board shall discuss and revise the proposed agenda and adopt an agenda for the meeting; provided, however, that the Board may not add items to or subtract items from the proposed agenda for a special meeting. If items are proposed to be added to the agenda, the Board may, by majority vote, require that written copies of particular documents connected with the items be made available at the meeting to all Board members.

(c) **Open Meetings Requirements.** The Board shall not deliberate, vote, or otherwise take action on any matter by reference to a letter, number, or other designation, or other secret devise or method, with the intention of making it impossible for persons attending the meeting of the Board to understand what is being deliberated, voted, or acted on. However, the Board may deliberate, vote, or otherwise take action by reference to an agenda, if copies of the agenda – sufficiently worded to enable the public to understand what is being deliberated, voted, or acted on – are available for public inspection at the meeting.

**Rule 5. Order of Business** – Items shall be placed on the agenda generally according to the following order of business:

- Call to Order
- Adjustment/Adoption of agenda
- Approval of minutes
- Consideration of Applications (including Public Comment if allowed by Chair)
- Consideration of Staff- or Board-Initiated Items
- Public Hearing
- Administrative Reports
- Committee Reports
- Any Additional Informal Discussion
- Any Additional Public Comment
- Adjournment

By general consent of the Board, items may be considered out of order.

Rule 6. Format for Review of Applications – The following outline is a guide for review of all applications:

1. Chair Requests Staff Report/Memo
  - a. Planner presents report/memo for the proposed application and addresses outstanding issues. Staff report/memo is entered into minutes
  - b. Questions from Board
    - i. Has the applicant received the Staff report/memo?
    - ii. Have all the technical requirements been met for the application?
    - iii. Are there any outstanding issues that have not been addressed by the applicant or other questions?
2. Applicant's Presentation
  - a. Applicant presents any additional information
  - b. Questions from Board/Staff
    - i. Does the applicant have any solutions to the issues identified by Board/Staff?
3. Board Questions/Discussion
4. Chair Entertains Motion on the Application
5. Board Motion and Action

## Rule 7. Presiding Officer –

The chair of the Board shall preside at Board meetings if he or she is present. If the chair is absent, the vice-chair shall preside. If both the chair and vice-chair are absent, another member designated by vote of the Board shall preside.

The chair may vote in all cases. In order to address the Board, a member must be recognized by the chair. The vice-chair or another member who is presiding retains all of his or her rights as a member, including the right to make motions and the right to vote.

If the chair becomes actively involved in debate on a particular matter, he or she may designate another Board member to preside over the debate. The chair shall resume presiding as soon as action on the matter is concluded.

The presiding officer shall have the following powers:

- To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
- To determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule on objections from other members on this ground;
- To entertain and answer questions of parliamentary law or procedure;
- To call for a brief recess at any time;
- To adjourn in an emergency;

- To appoint members to a Board committee and to attend committee meetings as an ex officio member;
- To sign recommendations, statements, and certificates that have been prepared consistent with Board action.

A decision by the presiding officer under any of the first three powers listed may be appealed to the Board upon motion of any member. Such a motion is in order immediately after a decision under those powers is announced and at no other time. The member making the motion on an appeal of the presiding officer's decision need not be recognized by the presiding officer, and the motion, if timely made, may not be ruled out of order.

**Rule 8. Substantive Motions** – All board action shall proceed by motion. Any member, including the chair, may make a motion. A motion does not require a second, but is not out of order if provided. A member may make only one motion at a time. A substantive motion is out of order while another substantive motion is pending.

The chair shall state the motion and then open the floor to debate. The chair shall preside over the debate according to the following general principles:

- The maker of the motion is entitled to speak first;
- A member who has not spoken on the issue shall be recognized before someone who has already spoken;
- To the extent possible, the debate shall alternate between proponents and opponents of the measure.

A motion shall be adopted by a majority of the votes cast when a quorum (as defined in [Rule 12](#)) is present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

A motion may be withdrawn by the introducer at any time before it is amended or before the chair puts the motion to a vote, whichever occurs first. A motion that is defeated can be renewed at any later meeting unless a motion to prevent reconsideration has been adopted.

**Rule 9. Procedural Motions** – In addition to substantive proposals, the Board shall utilize the usual and customary procedural motions consistent with the spirit of *Robert's Rules of Order Newly Revised* to provide for an orderly meeting. See [Appendix](#) for a list and description of some procedural motions. For questions regarding parliamentary procedures see [Rule 19](#).

**Rule 10. Public Address to the Board** – Any individual or group who wishes to address the Board on any item listed on the agenda shall make a request to the Board's Secretary. However, the Board shall determine at the meeting whether it will hear the individual or group.

## Rule 11. Public Hearings -

Public hearings may be required by law, required by Town Council, or deemed advisable by the Board. All notices and other requirements of the open meetings law applicable to the Board meetings shall also apply to public hearings at which a majority of the Board is present; such a hearing is considered to be part of a regular or special meeting of the Board. A public hearing for which any required notices have been given may be continued to a time and place certain without further advertisement. The requirements of [Rule 2\(b\)](#) shall be followed in continuing a hearing at which a majority of the Board, or of a Board committee, as applicable, is present.

At the time appointed for the hearing, the chair shall call the hearing to order and then preside over it. When the allotted time expires, or earlier, if no one wishes to speak who has not done so, the presiding officer shall declare the hearing ended.

The Board has the authority to establish rules regarding the length of time allotted for each speaker, and other pertinent matters such as designation of spokespersons, and those rules necessary to maintain order and decorum in the conduct of the hearing. Such public hearing rules can be adopted by a majority vote.

[Rule 12. Quorum](#) - A majority of the actual membership of the Board, excluding vacant seats, shall constitute a quorum. A majority is more than half. The chair shall be considered a member of the Board in determining the number on which a majority is based and in counting the number of members actually present. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

[Rule 13. Duty to Vote](#) - Every member must vote unless excused by the remaining members of the Board. A member who wishes to be excused from voting shall so inform the chair, who shall take a vote of the remaining members. No member shall be excused from voting except in cases involving conflicts of interest [see [Rule 14](#)], as defined by the Board or by law, or the member's official conduct, as defined by the Board. In all other cases, a failure to vote by a member who is physically present in the Board chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

[Rule 14. Conflicts of Interest](#) - Board members should not participate in or vote on any matter that involves a close familial, business, or other associational relationship or where the member has a financial interest in the outcome of the matter.

## Rule 15. Appointments/Elections –

All members of the Board shall be appointed by Town Council and shall serve at Town Council's pleasure. The Board may consider and make appointments to other bodies, including its own committees, if any, only in open session.

The Board shall use the following procedure to elect a chair and vice-chair and to make appointments to any of its committees. For each election or appointment the chair shall open the floor for nominations, whereupon the names of possible appointees may be put forward by the Board members. The names submitted shall be debated. When the debate ends, the chair shall call the roll of the members and each member shall cast his or her vote. The nominees receiving the highest number of votes shall be appointed.

## Rule 16. Committees and Boards –

The Board may establish and appoint members for such temporary and standing committees as are required by law or needed to help carry on the board's work. Any specific provisions of law relating to particular committees and board shall be followed.

The requirements of the open meetings law [see [Rule 4\(c\)](#)] shall apply to all elected or appointed authorities, boards, commissions, councils, or other bodies of a local governmental unit that exercise or are authorized to exercise legislative, policy-making, quasi-judicial, administrative, or advisory functions. However, it is noted that open meetings law does not apply to a meeting solely among the Town's professional staff.

**Rule 17. Minutes** – Full and accurate minutes of the Board proceedings shall be kept. The exact wording of each motion and the results of each vote shall be recorded in the minutes, and on the request of any member of the Board, the entire Board shall be polled by name on any vote. Members' and other persons' comments may be included in the minutes if the Board approves. The Board Secretary has the duty to draft and present minutes to the Board for approval and to draft recommendations, statements, and certificates consistent with Board action and present the same to the chair for review and signature.

**Rule 18. Amendment of the Rules** – These rules may be amended at any regular meeting or at any properly called special meeting that includes amendment to the rules as one of the stated purposes of the meeting, unless a statute or rule of Town Council provides otherwise. Adoption of an amendment shall require an affirmative vote equal to a quorum of the Board. No amendment to the Rules shall be effective until Town Council has granted its approval.

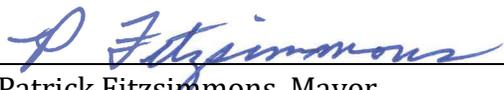
Rule 19. Reference to Robert's Rules of Order – The Board shall refer to the current edition of *Robert's Rules of Order Newly Revised* ("RONR"), to answer procedural questions not resolved in these rules, so long as RONR does not conflict with North Carolina law or with the spirit of these rules.

**ADOPTED** by the Planning Board on the 6th day of March, 2018, and amended on October 1, 2019, and on February 7, 2023.

  
\_\_\_\_\_  
Bob Pace, Chair

**ATTESTED BY:**  
  
\_\_\_\_\_  
James Eller, Board Secretary

**APPROVED** by Town Council this the 27th day of February, 2023.

  
\_\_\_\_\_  
Patrick Fitzsimmons, Mayor

**ATTESTED BY:**  
  
\_\_\_\_\_  
James Eller, Town Clerk

## APPENDIX – PROCEDURAL MOTIONS

Unless otherwise noted, each motion described below is debatable, may be amended, and requires a majority vote of the votes cast, a quorum being present, for adoption. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted. In order of priority (if applicable), some procedural motions are:

**Motion 1. To Appeal a Procedural Ruling of the Presiding Officer.** A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the Board, as specified in [Rule 7](#). This appeal is in order immediately after such a decision is announced and at no other time. The member making the motion need not be recognized by the presiding officer and the motion, if timely made, may not be ruled out of order.

**Motion 2. To Adjourn/Recess.** This motion may be made only at the conclusion of action on a pending substantive matter; it may not interrupt deliberation on a pending matter. A motion to recess to a date, time and place certain shall also comply with the requirements of [Rule 2\(b\)](#).

**Motion 3. To Take a Brief Recess.**

**Motion 4. To Follow the Agenda.** The motion must be made at the first reasonable opportunity, or it is waived.

**Motion 5. To Suspend the Rules.** The board may not suspend provisions of the rules that state requirements impose by law on the board. For adoption, the motion requires an affirmative vote equal to a majority of the entire membership of the board. A majority is more than half.

**Motion 6. To Divide a Complex Motion and Consider it by Paragraph.** The motion is in order whenever a member wishes to consider and vote on subparts of a complex motion separately.

**Motion 7. To Defer Consideration.** The Board may defer a substantive motion for later consideration at an unspecified time. A substantive motion which has been deferred automatically expires 100 days after the deferral unless a motion to revive consideration is adopted. If consideration of a motion has been deferred, a new motion with the same effect cannot be introduced while the deferred motion remains pending and has not expired. A person who wishes to revisit the matter during that time must take action to revive consideration of the original motion [see [Motion 12](#)], or else move to suspend the rules [see [Motion 5](#)].

**Motion 8. Motion for the Previous Question.** To end debate and call for a vote on a motion, a Board member can move the previous question. The motion is not in order until there has been a full debate and every member has had an opportunity to speak at least once.

**Motion 9. To Postpone to a Certain Time and Day.** To delay action on a pending motion a motion to postpone to a certain time and day would be proper. If consideration of a motion has been postponed, a new motion with the same effect cannot be introduced while the postponed motion remains pending. A person who wishes to revisit the matter must either wait until the specified time or move to suspend the rules [[Motion 5](#)].

**Motion 10. To Refer a Motion to a Committee.** The Board may vote to refer a substantive motion to a committee for its study and recommendations. Sixty days or more after the substantive motion has been referred to a committee, the introducer of the substantive motion may compel consideration of the measure by the entire Board, whether or not the committee has reported the matter to the Board.

**Motion 11. To Amend.** An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to amend. A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote. Any amendment to a proposed order, policy, regulation, statement, resolution, or recommendation, shall be reduced to writing before the vote on the amendment.

**Motion 12. To Revive Consideration.** The Board may vote to revive consideration of any substantive motion earlier deferred by adoption of a motion to defer consider under [Motion 7](#). The motion is in order at any time within 100 days after the day of a vote to defer consideration. A substantive motion on which consideration has been deferred expires 100 days after the deferral unless a motion to revive consideration is adopted.

**Motion 13. To Reconsider.** The Board may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side and only at the meeting during which the original vote was taken, including any continuation of that meeting through recess to a time and place certain. The motion cannot interrupt deliberation on a pending matter but is in order at any time before final adjournment of the meeting.

**Motion 14. To Rescind or Repeal.** The Board may vote to rescind action it has previously taken or to repeal items that it has previously adopted. The motion is not in order if rescission or repeal of an action is forbidden by law.