

Chapter 2 – Administration

ARTICLE IV. BOARDS, COMMISSIONS AND COMMITTEES

DIVISION 2. PLANNING BOARD

Sec. 2-151. Establishment

Pursuant to the authority granted in G.S. 160D-301, the town council establishes a planning board of the town, which board shall consist of five regular members and up to two alternate members who shall all serve at the pleasure of town council. Only residents of the Town of Weaverville are eligible to serve on the planning board. Members shall be appointed by town council. An alternate member may serve on the planning board in the absence or temporary disqualification of a regular member and when so serving has all of the powers and duties of a regular member.

The term of office of each member and alternate member of the planning board shall be for three years. In appointing original members or in filling vacancies caused by the expiration of the terms of existing members, the mayor and town council may appoint certain members for less than three years so that the terms of all members do not expire at the same time. Vacancies occurring on the planning board shall be filled for the unexpired term only.

Members of the planning board shall receive no compensation for their services.

Any member of the planning board who is absent without good cause from three consecutive meetings of the board shall be reported to the mayor and may be removed from the board and replaced in the manner prescribed for appointments.

Sec. 2-152. Records

The planning board shall keep records of its meetings and proceedings and may certify attendance of board members to the town council.

Sec. 2-153. Officers

The planning board shall elect a chair and a vice-chair from its membership, who shall each serve for one year or until reelected or until their successors are elected. The planning board shall appoint a secretary, who may be a municipal officer, an employee of the town, or a member of the board.

Sec. 2-154. Rules of Procedure

The planning board shall adopt appropriate rules of procedure, which rules shall be consistent with G.S. Chapter 160D and subject to the approval of the town council. A copy of the adopted rules of procedure shall be maintained by the town clerk and posted on the town's website.

Sec. 2-155. Duties

The planning board shall primarily act in an advisory or administrative capacities and shall perform the following duties:

- (1) To 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) To facilitate and coordinate citizen engagement and participation in the planning process;
- (3) To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

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- (4) To advise the governing board 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) To exercise any functions in the administrative and enforcement of various means for carrying out plans that the governing board may direct;
- (6) To perform any other related duties that the governing board may direct, either through ordinance or action.

Sec. 2-156. Oaths of Office.

Members of the planning board shall, before entering into their duties, qualify by taking an oath of office as required by G.S. 160A-61.

DIVISION 3. BOARD OF ADJUSTMENT

Sec. 2-161. Establishment

Pursuant to the authority granted in G.S. 160D-302, the town council establishes a board of adjustment of the town, which board shall consist of five regular members and up to two alternate members who shall all serve at the pleasure of town council. Only residents of the Town of Weaverville are eligible to serve on the board of adjustment. Members shall be appointed by town council. An alternate member may serve on the board of adjustment in the absence or temporary disqualification of a regular member and when so serving has all of the powers and duties of a regular member.

The term of office of each member and alternate member of the board of adjustment shall be for three years. In appointing original members or in filling vacancies caused by the expiration of the terms of existing members, the mayor and town council may appoint certain members for less than three years so that the terms of all members do not expire at the same time. Vacancies occurring on the board of adjustment shall be filled for the unexpired term only.

Members of the board of adjustment shall receive no compensation for their services.

Any member of the board of adjustment who is absent with or without good cause from three consecutive meetings of the board shall be reported to the mayor and may be removed from the board and replaced in the manner prescribed for appointments.

Sec. 2-162. Records

The board of adjustment shall keep records of its meetings and proceedings and may certify attendance of board members to the town council.

The board of adjustment shall keep a record of all quasi-judicial matters which shall include the decision and all documents and exhibits submitted to the board of adjustment, together with the minutes of the meeting or meetings at which the decision was considered and decided. To aid the board of adjustment in creating the record of quasi-judicial matters, audio or videotaping of the hearing is recommended.

Sec. 2-163. Officers

The board of adjustment shall elect a chair and a vice-chair from its membership, who shall each serve for one year or until reelected or until their successors are elected. The board of adjustment shall appoint a secretary, who may be a municipal officer, an employee of the town, or a member of the board.

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Sec. 2-164. Rules of Procedure

The board of adjustment shall adopt appropriate rules of procedure which shall be consistent with G.S. Chapter 160D and subject to the approval of the town council. A copy of the adopted rules of procedure shall be maintained by the town clerk and posted on the town's website.

Sec. 2-165. Duties

The board of adjustment shall primarily act in a quasi-judicial capacity and shall perform the following duties:

- (a) **Quasi-Judicial Procedures** – The board of adjustment shall follow quasi-judicial procedures as specified in G.S. 160D-406 and Code Sec. 20-1309 when making any quasi-judicial decision.
- (b) **General** – The board of adjustment shall hear and decide all other matters which it is required to pass under any statute or development regulation adopted under the authority of GS Chapter 160D.
- (c) **Appeals** – Except as otherwise provided by G.S. Chapter 160D, the board of adjustment shall hear and decide appeals from administrative decisions regarding administration and enforcement of all development regulations and may hear appeals arising out of any other ordinance that regulates land use or development all as set out in Chapter 20, including specifically Code Sec. 20-1308 and Code Sec. 20-3108(b).
- (d) **Special Use Permits** – The board of adjustment shall hear and decide special use permits in accordance with principles, conditions, safeguards, and procedures specified in Chapter 20, including specifically Code Sec. 20-3108(c) and Code Sec. 20-3204.
- (e) **Variances** – The board of adjustment shall hear and decide all variance requests in accordance with the principles, conditions, safeguards, and procedures specified in Chapter 20, including specifically Code Sec. 20-3108(d).
- (f) **Sidewalk Waivers** – The board of adjustment shall hear and decide all requests for waivers of sidewalk requirements in accordance with principles, conditions, limitations and procedures specified in Chapter 20, including specifically Code Sec. 20-3108(e).
- (g) **Vegetative Screening and/or Buffer Waivers** – The board of adjustment shall hear and decide all requests to alter or eliminate the required vegetative screening or buffering requirement in accordance with principles, conditions, limitations and procedures specified in Chapter 20, including specifically Code Sec. 20-3108(f).

Sec. 2-166. Oaths of Office.

Members of the board of adjustment board shall, before entering into their duties, qualify by taking an oath of office as required by G.S. 160A-61.

ARTICLE VI. CONFLICTS OF INTEREST

Sec. 2-301. Governing Board

A governing board member, including all town council members and the mayor, shall not vote on any legislative decision, including but not limited to a development regulation adopted pursuant to G.S. Chapter 160D or Code Chapter 20; 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 governing board member shall not vote on any text or map amendment if the landowner of the property subject to such amendment or the applicant for the amendment is a person with whom the governing board member has a close familial, business, or other associational relationship.

Sec. 2-302. Appointed Boards

Members of appointed boards, including but not limited to the planning board and the board of adjustment, shall not vote on advisory, administrative or legislative decisions, including but not limited to a development regulation adopted pursuant to G.S. Chapter 160D or Code Chapter 20, 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 administrative decision or text or map amendment if the landowner of the property subject to such decision or amendment or the applicant for the development approval or amendment is a person with whom the governing board member has a close familial, business, or other associational relationship.

Sec. 2-303. Administrative Staff

No staff member shall make a final decision on an administrative decision, including but not limited to any decision required by G.S. Chapter 160D or Code Chapter 20, if the outcome of the decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest, the decision shall be assigned to the supervisor of the staff person. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this chapter unless the staff member is the owner of the land or building involved. No staff member of other individual or an employee of a company contracting with the town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the town as determined by the town.

Sec. 2-304. Quasi-Judicial Decisions

A member of any board exercising quasi-judicial functions shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business or other associational relationship with the affected person, or a financial interest in the outcome of the matter.

Sec. 2-305. Resolution of Objection

If an objection is raised to a member's participation at or prior to the hearing or vote on that matter and the member does not recuse themselves, the remaining members of the board shall by majority vote rule on the objection.

Sec. 2-306. Familial Relationship

For purposes of this article, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild, and those step, half, and in-law relationships.