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## CHAPTER 14: ADMINISTRATIVE AGENCIES

### 14.1 The Administrator.

The various provisions of this ordinance shall be administered under the general direction of the Town Manager and under the specific direction of the Town of Waynesville Development Services, Public Services and Utility Departments. For the purposes of this ordinance, the directors of these departments and their subordinate staffs are collectively referred to as the Administrator. The Development Services Department will serve as the "gatekeeper" for all development applications and will advise applicants on appropriate personnel to contact.

#### 14.1.1 Duties and Responsibilities.

The Administrator shall have the following powers and duties, to be carried out in accordance with the terms of this ordinance:

- A. To maintain a record of all permits and approvals on file and to make available copies to interested parties.
- B. To review all applications for land development for compliance with the terms of this ordinance.
- C. To provide the Waynesville Town Council, the Waynesville Planning Board, the Board of Adjustment of Waynesville, and the Historic Preservation Commission of Waynesville with reports and recommendations regarding matters before these bodies, either as required by this ordinance, other laws or regulations or at the request of the body.
- D. To enforce compliance with the terms of this ordinance, unless otherwise specified.
- E. To administer the floodplain management program for the town.
- F. To administer the stormwater management program for the town.
- G. To administer the sedimentation and erosion control program for the town.
- H. To issue driveway access permits.
- I. To review all development plans for compliance with street and utility requirements of the Town of Waynesville.
- J. Such additional powers and duties as may be set forth for the Administrator elsewhere in this ordinance and other laws and regulations of the town.

(Ord. of 5-27-2014(1); Ord. No. O-28-24, § 2, 6-11-2024)

### 14.2 Town Council.

#### 14.2.1 Powers and Duties.

The Town of Waynesville's Town Council shall have the following powers and duties to be carried out in accordance with the terms of this ordinance.

- A. To conduct any and all business in accordance with their Charter and North Carolina General Statutes.
- B. To amend the Land Development Plan and other plans as necessary.

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- C. LDS Decisions: The Town Council shall render final decisions regarding the following permits types (see also Chapter 15):
    - 1. Designation of Historic Landmarks/Districts (15.11.1)
    - 2. Text Amendments (15.14)
    - 3. Map Amendments/Rezoning (15.14)
    - 4. Conditional District (15.15)
    - 5. Vested Right (15.16)

(Ord. No. O-28-24, § 2, 6-11-2024)

### **14.3 Planning Board.**

#### **14.3.1 Powers and Duties.**

The Town of Waynesville's Planning Board shall have the following powers and duties to be carried out in accordance with the terms of this ordinance.

- A. To perform studies and surveys of the present conditions and probable future development of the town and its environs, including but not limited to, studies and surveys of land uses, population, traffic, parking, expansions of extraterritorial jurisdiction, etc.
- B. To formulate and recommend to the Town Council the adoption and amendment of a Land Development Plan and other plans as necessary.
- C. To conduct annexation feasibility studies and recommend suitable areas of annexation to the Town Council.
- D. LDS Review: The Planning Board shall review and make recommendations regarding the following permits types (see also Chapter 15):
  - 1. Text Amendments (15.14)
  - 2. Map Amendments/Rezoning (15.14)
  - 3. Conditional District (15.15)
  - 4. Vested Right (15.16)
- E. LDS Decisions: The Planning [Board] shall render final decisions regarding the following permits types (see also Chapter 15):
  - 1. Site Plans/Design Review (Major) (15.8.2)
  - 2. Subdivision (Major) - Preliminary Plat (15.9.2)
  - 3. Special Use Permits (15.11.1)
- F. The Planning Board shall also have any additional powers and duties as may be set forth for in other laws and regulations or at the direction of the Town Council.

#### **14.3.2 Membership and Quorum.**

- A. The Planning Board shall consist of the number of members referenced and indicated in the most current version of the Town of Waynesville Boards and Commissions Manual which may from time to time be updated or amended. A quorum, consisting of a simple majority of members shall be necessary to transact business.

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- B. The Waynesville Town Council shall appoint members from within the Town limits and, if the Town is exercising Extraterritorial Jurisdiction, one (1) or more members shall be appointed by the Haywood County Commissioners as set forth in G.S. 160D-307 to provide for proportional representation of residents within the Extraterritorial Jurisdiction. As vacancies occur the Administrator shall advise the appropriate governing board to make appointments or reappointments as necessary to maintain this proportional representation based on best available estimates of current population of the Town and the Extraterritorial Jurisdiction. The representatives of the Extraterritorial Jurisdiction shall have equal rights, privileges and duties with the other members of the Planning Board.
  - C. All members shall serve three (3) year terms and may succeed themselves.
  - D. Officers shall be elected in accordance with the adopted rules of procedure.
  - E. Meetings shall be held on the date and time as referenced in the Town of Waynesville Boards and Commission Manual and may from time to time be updated or amended.

(Ord. of 5-27-2014(1); Ord. No. O-11-21, § 6, 6-22-2021; Ord. No. O-28-24, § 2, 6-11-2024)

## **14.4 Board of Adjustment.**

### **14.4.1 Powers and Duties.**

The Board of Adjustment of Waynesville shall have the following powers and duties to be carried out in accordance with the terms of this ordinance:

- A. To hear and decide appeals from any order, requirement, permit, decision or determination issued by an administrative officer of the town in enforcing any provision of the Town of Waynesville Minimum Housing Codes.
- B. LDS Decisions: The Board of Adjustment shall render final decisions regarding the following permits types (see also Chapter 15):
  - 1. Appeal of any Administrative decisions (15.6-7, 15.8.1, 15.12).
  - 2. Appeals of Historic Preservation Commission Decision regarding Certificate of Appropriateness (Major) (15.11.3).
  - 3. Variances (15.13).
- C. The Board of Adjustment shall also have any additional powers and duties as may be set forth for in other laws and regulations or at the direction of the Town Council.

### **14.4.2 Membership and Quorum.**

- A. The Waynesville Board of Adjustment shall consist of the number of members referenced and indicated in the most current version of the Town of Waynesville Boards and Commissions Manual which may from time to time be updated or amended. A quorum, consisting of simple majority of members shall be necessary to transact any business, except consideration of variance applications, in compliance with the following subsection.
- B. Per 160D-406(i), the concurring vote of four-fifths (4/5) of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter. Vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

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- C. The Waynesville Town Council shall appoint members from within the Town limits and, if the Town is exercising Extraterritorial Jurisdiction, one (1) or more members shall be appointed by the Haywood County Commissioners as set forth in G.S. 160A-362 to provide for proportional representation of residents within the Extraterritorial Jurisdiction. As vacancies occur the Administrator shall advise the appropriate governing board to make appointments or reappointments as necessary to maintain this proportional representation based on best available estimates of current population of the Town and the Extraterritorial Jurisdiction. The representatives of the Extraterritorial Jurisdiction shall have equal rights, privileges and duties with the other members of the Board of Adjustment.
  - D. All members shall serve three (3) year terms and may succeed themselves.
  - E. Officers shall be elected in accordance with the adopted rules of procedure.
  - F. Meetings shall be held on the date and time as referenced in the Town of Waynesville Boards and Commission Manual and may from time to time be updated or amended.

(Ord. of 5-27-2014(1); Ord. No. O-01-15, § 10, 1-27-2015; Ord. No. O-11-21, § 7, 6-22-2021; Ord. No. O-06-22, § 14, 3-22-2022; Ord. No. O-39-22, § 3, 12-13-2022; Ord. No. O-28-24, § 2, 6-11-2024)

## **14.5 Historic Preservation Commission.**

### **14.5.1 Powers and Duties.**

The Historic Preservation Commission of Waynesville shall have the following powers and duties to be carried out in accordance with the terms of this ordinance of G.S. Chapter 160D, Article 9, Part 4:

- A. To undertake and inventory of properties of historical, prehistorical, archaeological, architectural and/or cultural significance.
- B. To conduct an educational program with respect to historic districts and landmarks within its jurisdiction.
- C. To cooperate with the state, federal and local government in pursuance of the purposes of the tasks assigned to them; to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest. The Town Council, or the commission, when authorized by the Town Council, may contract with the state or the United States, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law.
- D. To enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof.
- E. To prepare and recommend the official adoption of a preservation element as part of the town's Land Development Plan.
- F. To recommend to the Town Council the acquisition by any lawful means of the fee or any lesser interest, including options to purchase, of properties within established districts or of any such properties designated as landmarks. The commission may recommend to the board to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property.
- G. To recommend the restoration, preservation and operation of historic properties.

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- H. To negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation, when such action is reasonably necessary and is authorized by the Town Council.
  - I. LDS Review: The Planning Board shall review and make recommendations regarding the following permits types (see also Chapter 15):
    - 1. Designation of Historic Landmarks/Districts (15.11.1)
  - J. LDS Decisions: The Historic Preservation Commission shall render final decisions regarding the following permits types (see also Chapter 15):
    - 1. To Hear Appeals of Administrative Decisions regarding Certificates of Appropriateness (Minor) (15.11.2)
    - 2. Certificates of Appropriateness (Major) (15.11.3)
  - K. The Historic Preservation Commission shall also have any additional powers and duties as may be set forth for in other laws and regulations or at the direction of the Town Council.

#### **14.5.2 Membership and Quorum.**

- A. The Waynesville Historic Preservation Commission shall consist of the number of members referenced in the most current version of the Town of Waynesville Boards and Commissions Manual which may from time to time be updated or amended. A quorum, consisting of a simple majority of the membership shall be necessary to transact business.
- B. The Waynesville Town Council shall appoint all members. Vacancies shall be filled by the Waynesville Town Council as they occur.
- C. All members shall serve three (3) year terms and may succeed themselves.
- D. Officers shall be elected in accordance with the adopted rules of procedure.
- E. Meetings shall be held on the date and time as referenced in the Town of Waynesville Boards and Commission Manual and may from time to time be updated or amended.

(Ord. of 5-27-2014(1); Ord. No. O-11-21, § 8, 6-22-2021; Ord. No. O-28-24, § 2, 6-11-2024)

### **14.6 Meetings and General Procedures.**

#### **14.6.1 All Meetings to be Open.**

All meetings of bodies under this ordinance shall be open to the public in accordance with G.S. 143-318 (Meetings of Public Bodies) and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the respective bodies and approved by the Town Council.

#### **14.6.2 Rules of Procedure.**

All Boards shall adopt formal rules of procedure consistent with the level of decision-making vested with that board/commission (e.g., advisory review, quasi-judicial). Any adopted rules of procedure shall be kept on file at the Planning Department and shall be made available to the public.

#### **14.6.3 Minutes.**

Accurate minutes of each meeting shall be maintained, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and it shall keep records of its examinations and official actions, all of which shall be filed in the office of the Administrator for the public record.

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#### 14.6.4 Meetings.

- A. All bodies authorized under this ordinance shall meet at regularly scheduled times and at such other times as determined by the chairman as provided for in the rules of procedure.
- B. Special meetings may be called at any time by the chairperson or by request of a majority of members of the board.

#### 14.6.5 Staff.

The Administrator or their designee shall serve as staff to the various boards and commissions as outlined in this chapter. In addition, the Town Attorney may provide legal and procedural assistance when requested.

#### 14.6.6 Attendance Policy.

All members shall attend board/commission meetings on a regular basis. If any member misses more than three (3) consecutive meetings, or does not attend at least 75% of the meetings in one calendar year, he/she may be replaced at the discretion of the Town Council.

#### 14.6.7 Conflict of Interest Policy.

- A. **Governing Body.** A governing body member shall not vote on any 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 governing body 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.
- B. **Appointed Boards.** Members of appointed boards 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. An appointed 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.
- C. **Administrative Staff.** No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that 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 under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.
- D. 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 or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.
- E. **Quasi-Judicial Decisions.** A member of any board exercising quasi-judicial functions pursuant to this Chapter 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

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close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

- F. **Resolution of Objection.** If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- G. **Familial Relationship.** For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. (2019-111, s. 2.4.)

(Ord. No. O-11-21, § 9, 6-22-2021; Ord. No. O-28-24, § 2, 6-11-2024)