

Historic Preservation Commission Procedural Rules, Town of Mooresville, North Carolina

Part I. Applicability

Rule 1. Applicability of Rules

These rules apply to all meetings of the Town of Mooresville Historic Preservation Commission (the “Commission”). For purposes of these rules, a meeting of the Commission occurs whenever a majority of the Commission’s members gather, either in person or simultaneously by electronic means, to conduct hearings, deliberate, vote, or otherwise transact public business within the Commission’s real or apparent jurisdiction. The term “majority” as used here and elsewhere in these rules means, unless otherwise specified, a simple majority, that is, more than half.

The function of the Commission is to provide guidance to the Town of Mooresville Board of Commissioners in and make final decisions for certain matters related to historic preservation and land development in the Historic Preservation Overlay District in the Town of Mooresville (the “Town”). The Commission shall be governed by the terms of Chapter 160D Section 303 of the General Statutes of North Carolina, the Town of Mooresville Unified Development Ordinance (UDO), as well as other applicable sections of the General Statutes of North Carolina. The Commission shall exercise such additional authority as may be given it under general law, special act, or local ordinance.

These rules of procedure are adopted by the Commission under its authority. All members of the Commission shall thoroughly familiarize themselves with the statutes and ordinances specified above and these rules of procedure.

Part II. Quorum

Rule 2. Quorum

The presence of a quorum is necessary for the Commission to conduct business. A quorum consists of a majority of members eligible to vote. A member who withdraws from a meeting of the Commission without being excused by majority vote of the remaining members present shall not be counted as present for quorum purposes. If an evidentiary hearing is set for a given date and a quorum of the Board is not then present, the hearing shall be continued until the next regular Board meeting without further advertisement. Whenever during a meeting a quorum ceases to be present, the Commission may not continue to hear information or debate on any quasi-judicial matter and may not vote on any action except to adjourn.

Part III. Open Meetings

Rule 3. Electronic Commission Meetings

(a) **General Provisions.** No member who is not physically present may participate in a meeting of the Commission by electronic means except in accordance with this rule. The Commission may adopt rules regarding electronic attendance by Commission members and amend the same as needed on an annual basis. A Commission member may attend a meeting by conference call, conference video, or other electronic means under the following circumstances that would make in-person attendance unduly burdensome: (1) the member is suffering from an injury or illness or is recovering from an injury or illness that does not affect the cognitive functions of the member; or (2) physical conditions affecting travel for the Commission member such as flooding, ice, snow, felled trees, and the like; or (3) an emergency meeting is called wherein immediate action is needed and electronic attendance is necessary to accommodate a quorum. When one or more members attend a Commission meeting remotely as provided above, said meeting shall comply with the requirements and procedures set out in these procedures below.

(b) **Electronic Meetings During a State of Emergency Declared by the Governor or General Assembly.** During any state of emergency declared by the Governor or General Assembly pursuant to G.S. 166A-19.20, a meeting of the Commission shall comply with the requirements of this paragraph if (1) the Commission falls within the emergency area and (2) at least one Commission member attends the meeting by conference call, conference video, or other electronic means.

- (1) *Notice.* The public notice for any regular, special, emergency, or recessed meeting that is subject to this paragraph shall specify how the public can access the electronic meeting in real time.
- (2) *Member Identification.* Each member who attends by electronic means shall identify himself or herself in each of the following situations:
 - a. when roll is taken or the meeting begins;
 - b. before taking part in deliberations, including making any motions, proposing any amendments, or raising any points of order; and
 - c. before voting.
- (3) *Meeting Materials.* All documents considered during the meeting shall be furnished to each Commission member.
- (4) *Method of Electronic Participation.* Any member who attends electronically shall use a means of communication that enables the member
 - a. to hear what is said by other Commission members and any person who addresses the Commission and
 - b. to be heard by other Commission members.
- (5) *Quorum.* A member who attends by electronic means counts as present for quorum purposes, but only while the Commission maintains electronic communication with that member.
- (6) *Voting.* The Commission shall conduct all votes by roll call. It may not vote by secret or written ballots. The votes of any member who attends by electronic means shall be counted as if the member were physically present, but only while the Commission maintains electronic communication with that member.

- (6) *Acting by Reference.* The Commission shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document unless copies of the agenda or document are available for public inspection at the meeting and so worded that people in attendance can understand what is being deliberated or acted upon.
- (7) *Minutes.* The minutes shall indicate that the meeting was conducted by electronic means, which members took part electronically, and when such members joined or left the electronic meeting.
- (8) *Live Streaming.* The meeting shall be streamed live online so that live audio (and video, if any) are available to the public. If the Commission meets by conference call, the public shall have an opportunity to dial in or stream the audio live and listen to the electronic meeting.
- (9) *Public Hearings.* Although it may conduct any public hearing mandated or permitted by law, the Commission shall allow the public to submit written comments on the hearing's subject matter between the publication of any required notice and twenty-four hours after the hearing.

Rule 4. Meetings to Be Open to the Public

Except as permitted by Rule 5, all meetings of the Commission shall be open to the public, and any person may attend its meetings.

Rule 5. Closed Sessions

(a) *Bases for Closed Session.* The Commission may enter a closed session from which the public is excluded on any of the grounds listed in G.S. 143-318.11(a).

(b) *Motion to Enter Closed Session.* The Commission may hold a closed session only upon a motion duly made and adopted in open session. The motion to enter closed session shall cite one or more of the permissible bases listed in G.S. 143-318.11(a) for closed sessions. For a closed session held under G.S. 143-318.11(a)(1) (prevent disclosure of privileged or confidential information or information not considered public record), the motion shall name or cite the law that renders the information confidential or privileged. For a closed session called pursuant to G.S. 143-318.11(a)(3) (attorney consultation and preservation of attorney-client privilege), the motion shall name the parties to any pending lawsuit that the Commission's attorney plans to discuss in the closed session.

(c) *Closed-Session Participants.* Aside from the Commission members themselves, only those individuals invited by the Commission may participate in a closed session. The Commission will invite only those individuals whose presence is reasonably necessary to aid the Commission in its closed-session deliberations.

(d) *Motion to Return to Open Session.* Upon completing its closed-session business, the Commission shall return to open session.

Rule 6. Meeting Minutes

(a) *Minutes Required for All Meetings.* The Commission shall keep full and accurate minutes of its meetings, including any closed sessions. To be "full and accurate," the minutes must record all actions taken by the Commission, as well as the Commission's

compliance with any applicable procedural requirements. The minutes should set out the precise wording of each motion and make it possible to determine the number of votes cast for and against each motion. The minutes need not record Commission member discussions, though the Commission in its discretion may decide to incorporate such details into the minutes.

(b) Record of “Ayes” and “Noes.” At the request of any member, the minutes shall indicate how each member voted by name on a particular matter.

(c) General Accounts of Closed Sessions. In addition to minutes, the Commission shall keep a general account of each closed session. The general account shall be sufficiently detailed to provide a person not in attendance with a reasonable understanding of what transpired. The Commission may combine the minutes and general account of a closed session into one document, so long as the document contains both a complete record of actions taken, and the level of detail required for a general account.

(d) Sealing Closed-Session Records. Minutes and general accounts of closed sessions shall be sealed until unsealed by order of the Commission or in accordance with instructions adopted by competent authority. The sealed minutes and general account of any closed session may be withheld from public inspection, so long as public inspection would frustrate the purpose(s) of the closed session.

Rule 7. Broadcasting and Recording Meetings

(a) Right to Broadcast and Record. Any person may photograph, film, tape-record, or otherwise reproduce any part of a Commission meeting that must take place in open session. Except as provided in paragraph (c) of this rule, any radio or television station may broadcast any such part of a Commission meeting.

(b) Advance Notice. Any radio or television station that plans to broadcast any portion of a Commission meeting shall so notify the Planning Director no later than twenty-four (24) hours before the meeting. The failure to provide notice is not, by itself, grounds for preventing the broadcast of a Commission meeting.

(c) Equipment Placement. The Commission chair or an appropriate staff member may regulate the placement and use of camera or recording equipment to prevent undue interference with a Commission meeting, so long as he or she allows the equipment to be placed where it can carry out its intended function. If the Commission chair or staff member determines in good faith that the equipment and personnel necessary to broadcast, photograph, or record the meeting cannot be accommodated without undue interference to the meeting, and an adequate alternative meeting room is not readily available, the Commission chair or staff member may require the pooling of the equipment and the personnel operating it.

(d) Alternative Meeting Site. If the news media requests an alternative meeting site to accommodate news coverage, and the Commission chair grants the request, the news media making the request shall pay the costs incurred by the local government unit in securing an alternative meeting site.

Part IV. Organization of the Commission

Rule 8. Organizational Meeting; Selection of Officers and Alternates

(a) Selection of Chair and Vice Chair; Oath. On the date and at the time of the first regular meeting in July, all newly appointed and reappointed members of the Commission shall take and subscribe the oath of office as the first order of new business. As the second order of new business, the Commission shall elect a chair and vice chair (herein "Chair" and "Vice Chair," respectively) using the following nomination and voting procedure in open session: The seated Chair shall open the floor for nominations as to the position of Chair, whereupon the names of possible appointees may be put forward by any Commission member(s). The names submitted shall be debated. Only members who reside in the corporate limits of the Town are eligible to serve as Chair or Vice Chair. When the debate ends, the Chair shall call the roll of the members and each member shall cast his or her vote. The nominee receiving the highest number of votes shall be appointed to the position. The Chair will then repeat the process for nominations and voting for the appointment of a Vice Chair. Each officer shall serve for a one (1) year term, but may be elected for successive terms to the same office. Each officer shall serve until relieved of his/her duties as herein provided. Terms for the newly elected Chair and Vice Chair shall begin at 8:00am on the day after the election. Members shall be notified of the date, time, and place of the election of officers at least seven (7) days prior to the regular July meeting.

(b) Administrative Assistant. The Planning and Community Development Department of the Town of Mooresville (the "Town") shall arrange to have secretarial duties performed for the Commission. Said person(s), herein referred to as "Administrative Assistant," shall take the minutes and keep all records of the Commission. The Administrative Assistant shall conduct all correspondence of the Commission, arrange for all specific and public notices required to be given, notify members of pending meetings, prepare the agenda for regular and special meetings, deliver the agenda and any administrative materials for the record to all Commission members and other people required by law, notify parties to cases before the Commission of its decision on such cases, and generally supervise the clerical work of the Commission. The Administrative Assistant shall keep in permanent volumes the minutes of every meeting of the Commission. These shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Commission and all votes of members of the Commission upon any resolution or upon the final determination of any question, indicating the names of the members absent or failing to vote. The minutes of the Commission shall be kept in office of the Planning and Community Development Department.

(c) The Town Board of Commissioners appoints members to the Commission and members of the Commission serve as at-will appointees. A vacancy on the Commission shall automatically be created and such member's seat shall be declared vacant if such member fails to attend a minimum of seventy-five (75%) of all regular, special, or called meetings in any fiscal year. Meetings that are held within one-calendar month shall be treated as one meeting for purposes of this section.

Part V. Types of Meetings

Rule 9. Regular Meetings

(a) Regular Meeting Schedule. The Commission shall hold a regular meeting at least one time per month unless the Chair determines there are no agenda items to be considered. The Commission shall annually adopt a regular-meeting schedule showing the time(s) and place(s) of its regular meetings for the year. Regular meetings and hearings may be rescheduled by the Chair if a scheduled meeting or hearing cannot be held because of a holiday, weather, lack of a quorum, or other unusual circumstance. Notice of a rescheduled meeting shall be provided in the same means as required for a special meeting; provided however, that a meeting that has already been convened may be continued to another time and date without further advertisement.

(b) Notice of Regular Meeting Schedule. The Commission shall ensure that a copy of its current regular meeting schedule, complete with the time and place of each regular meeting, is filed with the Town Clerk and posted on the Town's website. Each member shall be notified of each regular meeting by the Commission's Administrative Assistant.

(c) Change to Regular Meeting Schedule. The Commission may revise its regular-meeting schedule to change the time or place of a particular regular meeting or all regular meetings within a specified period. The Commission shall ensure that the revised regular meeting schedule is filed with the Town Clerk at least seven (7) calendar days before the first meeting held pursuant to the revised schedule. The Commission shall also have the revised schedule posted on the Town's website.

(d) Approval of Prior Meeting's Minutes. A Commission meeting shall be held to consider and approve the minutes from the prior month; provided, however, that if no action is taken at a meeting beyond approval of the minutes from the last time the Commission met, the Chair, in his or her discretion, may postpone meeting until new business appears on the agenda.

Rule 10. Special Meetings

(a) Calling Special Meetings. The Chair or a majority of the members may call a special meeting of the Commission. Alternatively, a special meeting may be called by vote of the Commission in open session during a regular meeting or another duly called special meeting. Special meetings may be called as necessary for Commission training, work sessions, a heavy workload, or the conduct of Commission business.

(b) Notice to the Public. Except where called in open session during a regular meeting or another duly called special meeting, where no further notice is required, at least forty-eight (48) hours before a special meeting, the Commission shall cause written notice of the meeting's date, time, place, and purpose(s) to be (1) posted on the Commission's principal bulletin board or, if the Commission has no such bulletin board, at the door of the Commission's usual meeting room and (2) delivered, emailed, or mailed to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the Commission's Administrative Assistant or the Town Clerk. The Commission shall also have the notice posted on the Town of Mooresville website prior to the special meeting.

(c) Notice to Members. If the Chair or a majority of the members called the special

meeting, the Chair or whoever called the meeting shall ensure that notice of the meeting's date, time, place, and purpose(s) is mailed, emailed, or delivered to the other members at least forty-eight (48) hours before the meeting. If the special meeting was called at another duly held meeting of the Commission, and one or more members were absent, the Chair shall ensure that notice of the meeting's date, time, place, and purpose(s) is mailed, emailed, or delivered to any absent member(s) a minimum of forty-eight (48) hours in advance of the special meeting.

Rule 11. Emergency Meetings

(a) **Calling Emergency Meetings.** The Chair or a majority of the members may call an emergency meeting of the Commission, but only when necessary to address generally unexpected circumstances that demand the Commission's immediate attention.

(b) **Notice of Emergency Meetings.** Reasonable steps shall be taken by the Chair or the members who called the meeting to notify other Commission members of an emergency meeting. Additionally, notice of the meeting shall be given to each local newspaper, local wire service, local radio station, and local television station that has filed with the Commission's Administrative Assistant or the Town Clerk a written request to be notified of emergency meetings. To be valid, the request must include the newspaper's, wire service's, or station's telephone number. Notice may be given by telephone, email, or the same method used to notify Commission members. Notice shall be provided immediately after members have been notified and at the expense of the media organization notified.

(c) **Transaction of Other Business Prohibited.** Only business connected with the emergency may be considered at an emergency meeting.

Rule 12. Recessed Meetings, Hearing Deferrals, and Continuances

(a) **Calling Recessed Meetings.** When conducting a properly called regular, special, or emergency meeting, the Commission may recess the meeting to another date, time, or place by a procedural motion made and adopted in open session. The motion shall state the time (including the date if the meeting will resume on a different day) and place at which the meeting will resume.

(b) **Notice of Recessed Meetings.** Notice of the recessed meeting's date, time, and place shall appear on the Town's website prior to the meeting. No further notice of a properly called recessed meeting is required.

(c) **Continuance.** The Commission may in its discretion continue any hearing when the Commission deems that to be reasonable to receive additional evidence or to further deliberate. In all instances, the Commission shall decide cases within a reasonable time.

Part VI. Agenda

Rule 13. Agenda

(a) **Draft Agenda.**

(1) *Preparation.* The Commission's Administrative Assistant shall prepare a proposed agenda for each meeting of the Commission.

- (2) *Requesting placement of items on proposed agenda.* Members may, by timely request, have items placed on the proposed agenda for any regular meeting. Members shall submit their requests to the Commission's Administrative Assistant at least five (5) working days before the meeting date.
- (3) *Supplemental information/materials.* A copy of all draft orders, policies, regulations, or resolutions shall be attached to the proposed agenda. The Commission's Administrative Assistant shall prepare an agenda packet that includes, for each item of business listed on the draft agenda, as much background information on the topic as is available and feasible to reproduce.
- (4) *Delivery to Commission members.* Each member shall receive a copy of the proposed agenda and the agenda packet. Except in the case of an emergency meeting, the proposed agenda and the agenda packet shall be provided to each member at least seventy-two (72) hours before the meeting.
- (5) *Public inspection.* The proposed agenda and agenda packet, except for materials not subject to inspection or copying under the public records law, shall be available to the public when they are ready to be circulated to members.

(b) Adoption of the Agenda

- (1) *Adoption.* As its first order of business at each meeting, the Commission shall review the proposed agenda, make whatever revisions it deems appropriate, and adopt the agenda for the meeting.
- (2) *Amending the agenda.* Both before and after it adopts the agenda, the Commission may add or subtract agenda items by majority vote of the members present and voting, except when the Commission's consideration of new agenda items would violate state law or these rules.
- (3) *Designation of items "For Discussion and Possible Action."* The Commission may designate an agenda item "For Discussion and Possible Action." The designation signifies that the Commission intends to discuss the item and may, if it so chooses, take action on the item following the discussion.

(c) Consent Agenda. The Commission may designate part of an agenda for a regular meeting as the consent agenda. The person(s) charged with preparing the proposed agenda may place routine or non-controversial items on the consent agenda. Prior to approving the meeting agenda, the Commission must honor any member's request to move an item from the consent agenda to new or unfinished business. The Commission may approve all items on the consent agenda through the adoption of a single motion to that effect, but the minutes shall list each item so approved.

(d) Informal Discussion of Agenda Items. The Commission may informally discuss an agenda item even when no motion regarding that item is pending.

Rule 14. Acting by Reference to Agenda or Other Document

The Commission shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document unless copies of the agenda or document are available for public inspection at the meeting and so worded that people in attendance can understand what is being deliberated or acted upon.

Rule 15. Agenda Items from Members of the Public

If a member of the public wishes to request that the Commission include an item on its regular-meeting agenda, the individual shall submit the request in writing to the Commission's Administrative Assistant at least five (5) working days before the meeting date. The Commission is not obligated to place an item on the agenda merely because such a request has been received.

Rule 16. Order of Business

Items of old and new business shall be placed on a regular meeting agenda according to the order of business, as shown on the adopted agenda. Without objection, the Chair may call agenda items in any order most convenient for the dispatch of business.

Part VII. Role of the Presiding Officer

Rule 17. The Chair

- (a) Presiding Officer. The Chair shall preside at meetings of the Commission.
- (b) Voting by the Chair. The Chair has the same duty to vote as other members, though in no event may the Chair break a tie on a motion on which he or she has already voted.
- (c) Recognition of Members. A member should be recognized by the Chair (or other presiding officer) in order to address the Commission.
- (d) Powers as Presiding Officer. As presiding officer, the Chair is to enforce these rules and maintain order and decorum during Commission meetings. To that end, the Chair may
 - (1) administer oaths by swearing in all witnesses offering testimony in evidentiary hearings; provided, however, that any witness with a religious objection to swearing may affirm;
 - (2) rule on points of parliamentary procedure, to include ruling out of order any motion clearly offered for obstructive purposes or intended to hamper or slow down the meeting;
 - (3) determine whether a member or other speaker has gone beyond reasonable standards of courtesy in his or her remarks and entertain and rule on objections from other members on this ground;
 - (4) entertain and answer questions of parliamentary procedure;
 - (5) rule on all objections to the presentation of evidence;
 - (6) call a brief recess at any time;
 - (7) in accordance with state law, issue subpoenas determined to be reasonable in nature and scope and not oppressive for the production of evidence when requested to do so in writing by a person with standing on a quasi-judicial matter before the Commission. Decisions made by the Chair regarding subpoenas are immediately appealable to the full Commission;
 - (8) rule on any objections or motions to quash subpoenas; and
 - (9) adjourn in an emergency.

(e) Appeals of Procedural Rulings. A member may appeal a decision made or an answer given by the Chair.

(f) Conducting the Evidentiary Hearing.

(i) Generally. Once the Chair or his or her designee has made an opening statement regarding the nature of the hearing and the process that will be followed, the Chair shall poll the Board as to any ex parte communications, bias, or conflicts of interest in accordance with Rule 29 herein. The Chair shall also address any matters of standing or jurisdictional issues. All witnesses providing testimony must be sworn in or affirm, as chosen by the witness. Town staff shall provide a preliminary statement of the case, including a summary of the facts and relevant ordinance provisions. Town staff shall present the application, supporting materials, staff report and any other written materials received and distributed prior to the hearing for introduction into the hearing record. Objections to the inclusion or exclusion of administrative materials may be made prior to or during the hearing. Rulings on unresolved objections, including objections to inclusion or exclusion of administrative materials, shall be made by the Commission at the hearing. The applicant shall present evidence and argument in support of the application or appeal taken. Parties with standing may present relevant evidence and argument in opposition or in support of the application and may object to evidentiary or jurisdictional issues. The Chair shall rule on such objections, but the Chair's ruling may be appealed to the full Commission for decision. Parties may call witnesses to give expert or relevant testimony. Persons without standing or who provide hearsay evidence will not be allowed to present evidence or object to evidence. Staff shall make a recommendation to the Commission for applications being considered. Parties may present rebuttal evidence. Closing statements or summaries may be made by parties to the case and staff. The Commission shall deliberate on and make a determination of the case.

(ii) Witnesses. The Chair must recognize witnesses before they are heard and confirm that they are under oath. The Chair shall allow all witnesses to be heard but may limit testimony or evidence that is irrelevant, repetitive, incompetent, hearsay, or inadmissible opinion testimony. The Chair shall allow the parties to the case to make direct and cross-examination of the witnesses and to present rebuttal evidence. The Chair may establish reasonable procedures to assure that is done in a fair, impartial and efficient manner. Commission members may ask questions of any witness.

(iii) Evidence. The Commission shall not be limited to consideration of such evidence as would be admissible in a court of law, but all decision must be based on competent, material and substantial evidence properly placed in the hearing record. Commission members may view the premises before arriving at a decision, but any key facts observed by members shall be disclosed at the hearing and made part of the record.

(iv) Deliberation. Upon completion of the presentation of evidence and recommendation by the staff, Commission members shall discuss the case among themselves in open session and may recall any witness to ask further questions and otherwise deliberate among themselves. Commission members shall not discuss the

case or give opinions on the evidence until initial presentation of the case is completed.

(g) Rehearings. An application for a rehearing may be made to the Commission and shall contain evidence that there has been a substantial change in the facts or conditions of the case. The Commission may decide to conduct a full evidentiary hearing to consider such application. The application for rehearing shall be denied by the Commission if, from the record, it finds there has been no substantial change in facts or conditions. If the Commission finds that there has been a change, it shall thereupon treat the request in the same manner as a new application.

Rule 18. Presiding Officer in the Chair's Absence

If the Chair is absent, the Vice Chair shall preside. If both the Chair and Vice Chair are absent, the Commission shall designate one of the members present to serve as temporary presiding officer. Any member who presides in place of the Chair has the same powers as the Chair during the meeting. Service as presiding officer does not relieve a member of the right to vote.

Rule 19. When the Presiding Officer Is Active in Debate

If the Chair or other presiding officer becomes active in the debate on a matter, he or she may designate another member to preside over the debate.

Part VIII. Motions and Voting

Rule 20. Action by the Commission

The Commission shall act by motion. Any member of the Commission, including the Chair, may make a motion.

Rule 21. Second Required

A second is required on any motion.

Rule 22. One Motion at a Time

A member may make only one motion at a time.

Rule 23. Withdrawal of Motion

The member who introduces a motion may withdraw the motion unless the motion has been amended or put to a vote.

Rule 24. Substantive (or Main) Motions

A substantive motion is not in order when any other motion is pending. Once the Commission disposes of a substantive motion, it may not take up a motion that presents essentially the same issue at the same meeting unless it first adopts a motion to reconsider pursuant to these procedures.

Rule 25. Procedural Motions

(a) Certain Motions Allowed. The Commission may consider the procedural motions as

described in *Suggested Procedural Rules for Local Appointed Boards*. Unless otherwise noted, each procedural motion may be debated and amended and requires a majority of votes cast and a quorum being present for adoption.

Rule 26. Debate

The presiding officer shall state the motion and then open the floor to debate, presiding over the debate according to the principles listed below.

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

Rule 27. Voting and Decisions

(a) **Vote Requirements.** A motion is adopted if supported by a simple majority of the votes cast, a quorum being present, except when a larger majority is required by these rules or state law. Voting may be done by voice or show of hands or other open means in the discretion of the Commission unless otherwise specifically provided herein. The Chair shall vote as any other Commission member. Only members present at the time a vote is taken shall be eligible to vote, except that members deemed present by electronic means under these rules may be entitled to vote if permitted by Rule 3. No Commission member shall vote on any matter regarding an application or appeal unless he or she has attended the hearing on that application or appeal.

(b) **Decisions.** The Commission shall determine contested facts and make its decision within a reasonable time period of the close of the public hearing on any quasi-judicial matter before it. Every decision shall be based upon competent, material and substantial evidence in the record. Each decision by the Commission shall be reduced to writing, reflect the Commission's determination of contested facts and their application to the applicable standards, and be approved by the Commission and signed by the Chair or other duly authorized member of the Commission. A motion made to determine a quasi-judicial matter shall state specifically any conditions desired to be made a part of that decision and shall reference, if appropriate, any documents or maps submitted as a part of that application. Any such references made in the motion shall, if approved, be part of the record and decision in that case. The vote of each member shall be recorded. If a request or application is not approved, the members voting not to approve shall state for the record the factual findings and rationale that support their opposition. The findings of fact and decision shall be prepared by the Administrative Assistant for signature by the Chair or acting Chair and delivered within a reasonable time by personal delivery, electronic mail, or first class mail to the applicant, landowner and any person who has submitted a written request for a copy. The person required to provide notice shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud. The written decision shall be filed with the Commission's Administrative Assistant as provided by the Town's UDO, which is within a reasonable time of the decision being made. The signed Findings of Fact and Decision of the Commission shall be shown in the record of the case as entered in the minutes of the Commission and shall be a public record available for inspection at all reasonable times. The decision shall become effective upon being filed with the

Commission's Administrative Assistant in accordance with the UDO.

Rule 28. Changing a Vote

A member may change the member's vote on a motion at any time before the presiding officer announces whether the motion has passed or failed. Once the presiding officer announces the result, a member may not change a vote without the unanimous consent of the remaining members present. A member's request for unanimous consent to change a vote is not in order unless made immediately following the presiding officer's announcement of the result.

Rule 29. Duty to Vote and Conflict of Interest

(a) **Duty to Vote.** Every member shall vote unless excused by the remaining members of the Commission. A member who wishes to be excused from voting shall so inform the presiding officer, who shall take a vote of the remaining members on whether to grant the request. The Commission may not excuse a member except in cases involving (1) a conflict of interest as defined by law or the Commission or (2) the member's official conduct or own financial interest. The unexcused failure to vote by a member who is physically present in the meeting room, or who has withdrawn without being excused by majority vote of the remaining members present, shall be recorded as an affirmative vote and shall further be counted toward the existence of a quorum. Withdrawal from participation in any matter is necessary only in those specific cases in which a conflict arises. There shall be no attempt to exclude entire categories of considerations because of the business or profession with which a member is associated.

(b) **Conflict of Interest.** A Commission member 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 an affected person, or a financial interest in the outcome of the matter. 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. Commission members should disclose at the hearing any pertinent facts about a pending case of which they have personal knowledge prior to the hearing. Other than disclosures of this type or of potential conflicts, a Commission member, whether seated or recused, should not testify at the hearing. A Commission member shall not participate in or vote on any legislative matter if he/she has a financial interest in the outcome of the matter. In applying this rule, the following procedure shall govern:

(1) A Commission member who determines he or she has a conflict of interest shall declare the existence of a conflict, describe said conflict to the Commission and recuse himself or herself from any deliberation or voting on the matter. A motion and vote shall be made to accept or reject the member's recusal. If the recusal is accepted, the recused member shall not take part in any discussions on the matter from which said member has been recused. Upon recusal, the member shall remove himself or herself from the room until after the matter has been heard and voted upon. The

recused member shall not count toward a quorum for that matter.

(2) A Commission member who believes there may exist a conflict of interest either for himself or herself or for another member who has not disclosed the potential conflict, shall declare the possible conflict and ask for a determination by the Commission. A majority vote of the Commission shall determine whether a conflict of interest exists.

(3) If an objection is raised to a Commission 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 Commission shall by majority vote rule on the objection. Any challenge made to the Commission shall be supported by competent evidence and shall be submitted to a properly convened meeting of the Commission. The Commission shall hear all evidence and shall, by majority vote of the remaining members, make the final determination as to the existence of a conflict of interest.

(4) Members of the Commission shall not express individual opinions on the proper judgment of any case with any party(ies) prior to the determination of that case. Violations of this rule may be cause for dismissal from the Commission.

(5) Commission members shall not discuss any quasi-judicial case with, or receive any information about a case from, any parties to the case, other Commission members, or from other interested persons outside the evidentiary hearing on that case. No Commission member shall investigate or gather facts about the case outside the evidentiary hearing. A Commission member may visit the site of a pending case provided that visit is disclosed at the evidentiary hearing. Commission members may seek and receive general information about ordinance and planning provisions pertaining to the case from the Chair, the Town attorney or Town staff (except when a staff member is a party or an adversarial witness), provided any factual queries regarding the pending case itself shall only be made in open session at the evidentiary hearing.

Rule 30. Voting by Written Ballot

(a) Secret Ballots Prohibited. The Commission shall not vote by secret ballot.

(b) Rules for Written Ballots. The Commission may decide by majority vote or unanimous consent to vote on a motion by written ballot. Each member shall sign his or her ballot, and the minutes shall record how each member voted by name. The ballots shall be made available for public inspection in the office of the Commission's Administrative Assistant immediately following the meeting at which the vote took place and remain there until the minutes of that meeting are approved, at which time the ballots may be destroyed.

Part IX. Public Hearings

Rule 31. Public Hearings

(a) **Calling Public Hearings.** The Commission may hold public hearings to solicit the public's input on specific issues. The Commission's Administrative Assistant shall schedule its public hearings, as appropriate.

(b) **Public Hearing Locations.** The Commission may hold public hearings anywhere within the area served by the Commission.

(c) **Notice of Public Hearings.** Any public hearing attended by a majority of members shall be considered part of a regular or special meeting of the Commission. Consequently, the relevant notice and related requirements of the open meetings law apply to such hearings. If a hearing's subject matter triggers additional notice requirements under state law or local rules, the Commission shall see that they are also satisfied.

(d) **Rules for Public Hearings.** The Commission may adopt reasonable rules for public hearings that, among other things,

- fix the maximum time allotted to each speaker;
- provide for the designation of spokespersons for groups supporting or opposing the same positions;
- provide for the selection of delegates from groups supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the meeting room (so long as arrangements are made, in the case of a hearing subject to the open meetings law, for those excluded from the meeting room to listen to the hearing); and
- provide for the maintenance of order and decorum in the conduct of the hearing.

(e) **Continuing Public Hearings.** The Commission may continue any public hearing without further advertisement, provided the time (including the date, if the hearing will resume on a different day) and place of the continued hearing are announced in open session. Except for hearings conducted pursuant to paragraph (g) of this rule, if a quorum of the Commission is not present for a properly scheduled public hearing, the hearing shall be continued until the Commission's next regular meeting without further advertisement.

(f) **Conduct of Public Hearings.** At the time appointed for the hearing, the Chair shall call the hearing to order and proceed to allow public input in accordance with any rules adopted by the Commission for the hearing. Unless the Commission votes to extend the hearing, when the time allotted for the hearing expires, or when no one wishes to speak who has not already done so, the Chair shall declare the hearing closed, and the Commission shall resume the regular order of business.

(g) **Public Comment.** The Commission may hold a public comment period at any regular meeting or special meeting called, at least in part, for that purpose. During the public comment period, members of the public may speak on any matters within the Commission's real or apparent jurisdiction. The provisions in paragraphs (d) and (f) of this rule apply to the Commission's public comment periods.

Part X. Committees and Appointments

Rule 32. Committees

(a) Authority to Establish. The Chair may establish standing or temporary committees to help the Commission carry out its work.

(b) Open Meetings Law. The requirements of the open meetings law apply whenever a majority of a committee's members gather in person or simultaneously by electronic means to discuss or otherwise conduct committee business.

Rule 33. Appointments to Committees

(a) Appointments in Open Session. If the Commission chooses to create one or more committees, the Commission shall consider and make appointments in open session.

(b) Appointment by Unanimous Consent. When there is only one nominee, the Chair may ask the Commission to approve the nominee's appointment by unanimous consent. If any member objects, the Commission shall vote on the nomination.

(c) Nomination and Voting Procedure. The Commission shall use the following procedure in making appointments. The Chair shall open the floor for nominations, whereupon Commission members may put forward and debate nominees. When debate ends, the Chair shall call the roll of the members, and each member shall cast a vote for the member's preferred nominee. Voting shall continue until a nominee receives a majority of votes cast during a single balloting.

(d) Multiple Appointments. If the Commission is making more than one appointment, each member shall have as many votes in each balloting as there are slots to be filled, and the votes of a majority of the total number of members voting shall be required for each appointment. No member may cast more than one vote for the same candidate for the same position during a single balloting.

Part XI. Miscellaneous

Rule 34. Adoption and Amendment of the Rules

The Commission may vote to adopt or amend these rules at any regular meeting or at any properly called special meeting for which adoption or amendment of the rules is one of the meeting's stated purposes, and provided that such proposed amendment(s) shall have first been submitted to all members in writing at least three (3) days prior to the meeting at which time the vote is taken. Any amendment to these rules must not violate any relevant statutes or generally accepted principles of parliamentary procedure. To be adopted, a motion to amend these rules must be approved by a majority of the Commission's members. Annually, at the regular meeting of the Commission held in July, these rules shall be reviewed and proposals for updates and amendments presented.

Rule 35. Reference to *Robert's Rules of Order Newly Revised*

These rules are made with the guidance of the *Suggested Procedural Rules for Local Appointed Boards* by Trey Allen and A. Fleming Bell, II and published in 2020 by the School of Government at the University of North Carolina at Chapel Hill. When

confronted with a procedural issue, the Commission shall refer to aforementioned publications and any updates, revisions, or amendments to it that may then be published. Additionally, the Commission shall refer to *Robert's Rules of Order Newly Revised* for guidance when confronted with a procedural issue not covered by these rules, state law, or the *Suggested Rules for Local Appointed Boards*.

Rule 36. Rules Retained and Posted

Once adopted, a copy of these rules shall be maintained in the office of the Town Clerk and shall additionally be posted on the Town's website.

