



ROCKINGHAM COUNTY

GOVERNMENTAL CENTER

Community Development Department

ROCKINGHAM COUNTY PLANNING BOARD AND BOARD OF ADJUSTMENT BYLAWS AND RULES OF PROCEDURE ROCKINGHAM COUNTY, NC LOCAL GOVERNMENT

SECTION I: PURPOSE

The Bylaws and Rules of Procedure establish mechanisms for conducting the business of and executing the duties and responsibilities of the Rockingham County Planning Board and Board of Adjustment (hereafter "this Board" or "the Board").

SECTION 2: POWERS AND DUTIES

Powers: The Board shall have all of the powers conferred by:

1. North Carolina General Statute § 160D, and all other applicable statutes adopted heretofore and hereafter by the General Assembly of North Carolina. All members of the Board shall thoroughly familiarize themselves with these statutes.
2. Ordinances and Resolutions of the Board of Commissioners of Rockingham County (hereafter "the Commissioners").

Duties: The Board shall perform the following duties:

1. To prepare and recommend amendments to plans for the ongoing development of the unincorporated lands of Rockingham County.
2. To prepare and recommend ordinances to the Commissioners that promote beneficial and orderly development within the framework of the comprehensive Land Use Plan and Unified Development Ordinance (UDO).
3. To consider proposed rezoning cases, special use permit applications, proposed amendments to the text of the UDO, and changes to the official zoning districts map.
4. When required, to convene as the Rockingham County Board of Adjustment for consideration of Variances from the terms of the UDO and appeals of the decisions of the Zoning Administrator.
5. To keep the Board of Commissioners and the general public informed as to the matters and proceedings of the Planning Board and Board of Adjustment.
6. To perform any other duties that may be lawfully assigned

SECTION 3: MEMBERSHIP, TERMS, AND VACANCIES

The Board shall consist of seven (7) regular members appointed by the Commissioners for staggered three (3) year terms. A majority of Board members (four [4] or more) shall have established residency in Rockingham County for a period of at least five (5) years. The terms of no more than four (4) members shall be scheduled to expire in any one (1) year, except as necessary in order to properly stagger appointments. Board members shall serve a maximum of two (2) consecutive terms with a two-year waiting period prior to reappointment to additional terms. Regular Board members that serve two (2) consecutive terms may be immediately



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appointed as alternate members, and shall become eligible for reappointment as regular Board members after the required waiting period. Unplanned vacancies occurring for reasons other than expiration of term shall be filled by order of the Commissioners for the period of the unexpired term or for such other periods as may be necessary to establish or re-establish membership and staggered terms.

As it deems sufficient to enable the Planning Board to conduct business without undue delay or difficulty, the Commissioners may also appoint alternate members to sit for hearings if a regular Board member is unavailable or recused from voting on a given matter. Alternate members shall be appointed for one (1) three-year term, and shall become immediately eligible for appointment as regular Board members upon completion of this term. Alternate members may be appointed as seated members sooner if vacancies among Board membership occur.

To the extent possible, Board membership shall represent the local community in terms of demographics and geographic areas. These areas may be defined as townships, county zip codes, census tracts, or other suitable regions.

The members of the Planning Board shall also serve as the Rockingham County Board of Adjustment. Conducting the business of the Board of Adjustment shall be governed by all ordinances adopted heretofore and hereafter by the General Assembly of North Carolina and the Board of County Commissioners. All members appointed to the Planning Board shall swear an oath of office as required by GS § 160D-309 before assuming duties.

SECTION 4: OFFICES

Elections: The Board shall elect a Chairperson and Vice-Chairperson from its membership and create and fill such offices as it may be deemed appropriate.

Tenure: The term of the Chairperson and other elected officers shall be one (1) year, with eligibility for reelection without limitation.

Duties: The Chairperson shall preside at all meetings of this Board. In the absence of the Chairperson, the Vice-Chairperson shall preside. In the absence of both, the senior Board member shall preside. Seniority shall be determined by the time of service as a member of the Board. The presiding Board member has the right to vote on all matters before the Board.

The Chairperson, Vice-Chairperson, or presiding Board member shall decide all matters of order and procedure, subject to these rules, unless directed otherwise by a majority of the Board in session.



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The Chairperson shall establish committees and appoint committee members, designate committee chairpersons, and perform such other duties as may be determined by this Board. The Chairperson, a Board member designated by the Chairperson, the Community Development Director, or designated staff may speak officially for the Board. The Community Development Director or a member of Staff shall represent this Board before the Board of Commissioners or before any other public agency or public officer. The Community Development Director or Staff shall determine and present official recommendations to the Commissioners and other bodies regarding matters referred for consultation, review, and/or approval.

The Community Development Director or a designated Staff member shall function as Secretary to the Board for the purpose of recording and keeping minutes of every meeting. The Secretary is not eligible to vote on any Board matters.

SECTION 5: MEETINGS

Regular Meetings: Regular meetings of the Board shall be held on the second Monday of each month at 6:30 pm. When a regularly scheduled meeting falls on a County holiday, the meeting shall occur the immediately following Tuesday evening at 6:30 pm, or as otherwise established by the Chairperson, the Community Development Director or designated Staff.

Special Meetings: Special meetings may be convened by the call of the Chairperson, or acting Chair, provided that notice of such meetings shall be given to all Board members at least forty-eight (48) hours before the hour and date for which the meeting is called. Notice of special meetings shall also be provided to the public as required by North Carolina Open Meetings Law provisions.

Dual Meetings: The Planning Board and the Board of Adjustment shall operate independently. The Planning Board meeting shall precede the meeting of the Board of Adjustment. At the conclusion of business before the Planning Board, a motion (with a majority in favor) shall be made for the Planning Board meeting to be temporarily adjourned so the members of the Planning Board may reconvene as the quasi-judicial Board of Adjustment. At the conclusion of the Board of Adjustment hearing(s), and upon a motion with a majority in favor, the Board of Adjustment shall adjourn to reconvene the Planning Board.

Public Access: All regular meetings, special meetings, and hearings of this Board shall be open to the public, except as provided in the North Carolina Open Meetings Law, GS § 143. All records, files, and accounts shall be public record, except as provided in the applicable North Carolina General Statutes.



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Quorum: Four (4) members, including the presiding Board member, shall constitute a quorum for transacting business and taking official action on zoning amendments (rezoning, text amendments), recommendations to the Commissioners, for deciding Special Use Permit requests, and for acting on appeals of decisions made by the Zoning Administrator. Six (6) members, including the presiding Board member, shall constitute a quorum for acting on requests for Variances from the requirements of the UDO and protected watershed overlay districts.

Alternate Members: Alternate members of the Board shall be called on to attend meetings and hearings at which one or more regular members are absent or recused. When unable to attend or participate in special or regularly scheduled meetings of the Board, members shall give prompt notice to Planning Staff. Alternate members are expected to attend all regular sessions of the Board to the extent possible. Assignments shall be rotated among the alternate members. At any meeting that they are called to attend, alternate members shall have the same powers and duties as regular members. Except at election of officers, no more than seven (7) members of the Board may participate officially in any meeting or quasijudicial hearing.

Attendance: A member who will be unable to attend a regular meeting of the Board must contact Planning Staff at least twenty-four (24) hours before the scheduled meeting and indicate the general reason for being absent. If possible, earlier notification is encouraged. The Board will be notified of the members absence at the meeting. If any Board member misses three (3) consecutive Board meetings, or misses more than one-fourth (1/4) of the regularly scheduled meetings in a calendar year without being excused by the Chairperson, the Chairperson or Planning Staff shall notify the Commissioners of the attendance record of the member and this shall constitute the resignation of that member.

Agenda: The Community Development Director or designated Staff shall prepare a single agenda, which is to include business items to be discussed by the Planning Board, the Board of Adjustment, or both when required, on a scheduled meeting date. The agenda shall be submitted to all members and alternates of the Board prior to each meeting date. On request, copies of the agenda shall be given to interested persons at any time after its preparation. Any Board member may, by a timely request, have an item placed on the proposed agenda.

Adoption of the Agenda: As its first order of business at each meeting, the Board shall adopt the agenda proposed by Staff for the meeting. Upon motions, the agenda can be revised to add items, delete items, or rearrange the order of items either before or after it is adopted. Before adoption, motions to revise or amend the agenda shall require a simple majority of votes. After adoption, motions to amend the agenda shall require a two-thirds (2/3) or larger majority of votes. Once the agenda has been adopted, each item of business on the agenda shall come



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before each respective Board unless:

1. No member makes a motion.
2. No member objects to a withdrawal of a rezoning request, special use permit, variance, or appeal by an applicant.
3. A motion to delete an item from the agenda is made and passed with a two-thirds (2/3) or larger majority.
4. The meeting runs out of time before an item comes before the Board.

Voting: Voting by members of the Board shall be by signal of a raised hand with spoken yeas, nays, and dissensions recorded. No Board member shall vote on a matter that decides an application or appeal unless he/she reviews the application materials and attends the public hearing on said application or appeal. Voting by proxy is not permitted. The vote of the majority of those members present, or as otherwise required by statute, shall be sufficient to decide matters before the Board. Every member must vote unless excused from voting by the remaining members of the Board. A member who wishes to be excused from voting shall so inform the chair, who will take a vote of the remaining members. No member shall be excused from voting except in cases involving conflicts of interest, 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, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative (yes) vote. In the event of a tie vote, the motion under consideration fails.

Given that a quorum of members present is met:

1. Motions of the Planning Board shall be adopted by a majority of the votes cast.
2. Motions of the Board of Adjustment to grant a variance to the UDO shall require four-fifths (4/5) vote of all seated members. A simple majority shall be required for all other legislative and quasijudicial matters.

Staff Reports: At all hearings. Staff shall present reports and recommendations to the Board regarding matters involved immediately before petitioners and others are heard. Staff reports on public hearing matters shall be considered public record.

Parliamentary Procedure: Procedure in all meetings of this Board shall be decided by the Chairperson unless overruled by a majority of the members present at the meeting, given that a quorum is met.

Procedures for Time Limits:

1. Given that quorum is met, the Board or a designated committee may limit the length of a meeting or set a time for adjournment by a majority vote of members present.



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2. As deemed necessary, the Chairperson, Vice-Chairperson, or presiding Board member may limit the time each person at a public hearing is allowed to continue to speak.

Continuation of Meetings: Board meetings shall not extend beyond 9:30 pm. Any item under consideration at that time and any remaining agenda items shall be continued to the next meeting of the Board or at a special meeting to be determined by the Board for continuation of the meeting. If discussion of an agenda item is still ongoing at 9:25 pm, such discussion shall cease to allow the Board to consider procedural items and adjourn.

Cancellation of Meetings: No meeting of the Board shall be conducted unless four (4) members and/or alternate members are present. Whenever there is no business for a regularly scheduled meeting of the Board, the Chairperson, Vice-Chairperson, the Community Development Director or Staff may cancel the meeting by giving notice to all members and alternates no less than forty-eight (48) hours prior to the date and time of the scheduled meeting. Proper public notice of the cancellation shall include notifying the Clerk to the Commissioners and posting a sign conspicuously at the front entrance to the Governmental Center. The minutes of the next regularly scheduled meeting shall indicate the general reason for the cancellation. Additionally, when County offices are closed by determination of the County Manager or Emergency Management Officials on or immediately prior to the date of a scheduled meeting, the Planning Board is concurrently cancelled. Notice of cancellation shall be made to Board members and alternates by the most expeditious means possible and a sign of such notice shall be posted conspicuously at the front entrance to the Governmental Center may be prepared and forwarded to the Commissioners. A member or members not voting with the majority may prepare this report. If requested, the report may be prepared by the Community Development Director or designated Staff. All minority reports shall be signed by the Board members who prepare or request preparation of the report before being forwarded to the Commissioners, along with the majority recommendation. In every case, when the Commissioners overrule, reverse, or do not adopt the recommended actions of the Planning Board, the Community Development Director or Staff shall notify the Planning Board of the findings, conclusions, and decisions of the Commissioners at the next regularly scheduled meeting of the Board.

SECTION 7: CONFLICT OF INTEREST

Members shall not vote on any advisory or legislative decision regarding a development regulation 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. For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or



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grandchild. The term includes step, half, and in-law relationships. Members 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.

SECTION 8: SUSPENSION AND AMENDMENTS

Suspension of Bylaws: This Board may suspend, where applicable, any of these Bylaws by unanimous vote of the members present, given that a quorum is met for the meeting at hand.

Amendments: These Bylaws may be amended at any time by an affirmative vote of not less than four-fifths (4/5) of the Board. Such amendments shall be submitted in writing to the regularly scheduled or special meeting of the Board of Commissioners at which the vote is taken.

SECTION 9: EFFECTIVE DATE

These Bylaws shall become effective upon adoption.

Adopted, this the 7th day of March, 2022.



Board of Commissioners Chairperson



Planning Board Chairperson



Community Development Director, Staff, or Secretary to the Board