

**RULES OF PROCEDURE
Board of Adjustment**

TOWN OF TROUTMAN, NORTH CAROLINA

I. GENERAL RULES

The Board of Adjustment (hereinafter referred to as the "Board") shall be governed by the terms of Chapter 160D-302 and 160D-406 of the General Statutes of North Carolina and by the Town of Troutman Unified Development Ordinance. All members of the Board shall thoroughly familiarize themselves with these laws. The Board, being a public body, shall at all times conduct meetings in conformity with the applicable Open Meetings Law statutes.

II. APPOINTMENTS

The Board shall consist of five (5) regular members and two (2) alternate members. Three of the regular members and one of the alternate members shall be residents of the Town and shall be appointed by the Town Board. Two regular members and one alternate member shall be residents of the extraterritorial jurisdiction and shall be appointed by the Iredell County Board of Commissioners.

The alternate members of the Board shall be requested to attend all regular and special meetings and shall be able to cast a vote when a regular member of the Board is absent or if any Board member has a conflict of interest.

Oath of Office

All members of the Board shall take an oath of office before entering their duties. The Oath of Office shall be administered by a person authorized by law to administer oaths, and shall be filed with the Town Clerk.

III. OFFICERS

At the regular Board meeting held in the month of January, the Board shall elect a Chair and Vice-Chair from their membership. All regular and alternate members shall be allowed to vote. Office-holders, however, shall be limited to regular members. Terms of office shall be for one year. Persons may be reelected to the same office for successive terms.

The Chair shall decide upon all points of order and procedure, subject to these Rules, unless directed otherwise by a majority of the Board in session at the time. The Chair shall appoint any committees found necessary to investigate any matters before the Board. The Vice-Chair shall serve as acting Chair in the absence of the Chair, and at such times they shall have the same powers and duties as the Chair. In the event of the absence of the Chair and the Vice-Chair, the remaining voting members present shall elect a temporary chair for that meeting.

IV. SECRETARY

Minutes of Board meetings and all secretarial duties related to the Board's business shall be conducted by the "Secretary". Said person shall be appointed by the Town Board. The Secretary, shall keep all Board records; conduct all correspondence of the Board; arrange for all public notices required to be given; notify members of pending meetings and their agenda, notify parties of cases before the Board of its decision on such cases, and generally supervise the clerical work of the Board. The Secretary shall keep in a permanent volume the minutes of every meeting of the Board. These shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Board, and all votes of members of the Board upon any resolution or upon the final determination of any question, indicating the names of members absent or failing to vote.

V. RULES OF CONDUCT

A. Removal

Members of the Board may be removed by the Town Board or Board of Commissioners for cause, including violation of the rules stated below herein.

B. Attendance

In order for the Board to carry out its duties and responsibilities, it is necessary for all members to attend the meetings. If any regular member is absent for three (3) consecutive meetings, the Chair may direct the Secretary to notify such member in writing of their absences and if such member fails to attend the next regular or called meeting, the Board, by a majority vote of the remaining regular and alternate members, may request that the position be vacated and also request that a replacement be made.

C. Conflicts of Interest

In accordance with Chapter 160D-109(d) of the General Statutes, no member of the Board shall seek to influence a decision, participate in any action or cast a vote involving any matter that is before the Board which may result in a private benefit to themselves, their immediate relatives or their business interest. A member may be excused from voting on a particular issue under the following circumstances:

1. If the matter at hand involves the member's own official conduct; or
2. If the member has such close personal ties to the applicant that they cannot reasonably be expected to exercise sound and impartial judgment on behalf of the public's interest.

If a Board member determines that they may have a conflict of interest on a particular issue, they shall declare the nature of such conflict and ask to be excused from voting on the issue related to such conflict. The remaining voting members, by majority vote, shall determine whether such conflict exists and whether said member may excuse themselves from further deliberations on said matter. If a member is excused from voting, they shall seat themselves in the audience and not participate in any further discussion on said matter or he shall remove himself from the meeting room during all deliberations pertaining to such matter. In no instance

may a member be excused from voting merely due to an unwillingness to vote on the issue at hand and where no conflict of interest is found to exist.

A challenge to the existence of a conflict of interest or a challenge of an undisclosed conflict of interest may be filed by any interested party with the Board. Such a challenge may be an appeal for a review of the findings of the Board or may be for the purpose of alleging an undeclared conflict of interest. Any challenge made to the Board shall be supported by competent evidence and shall be submitted at a properly convened meeting of the Board. The Board shall hear all evidence and, by majority vote of the remaining regular members, shall make the final determination as to the existence of a conflict of interest.

In the event a Board member is found to have a conflict of interest and is excused from voting by the Board, they shall be replaced by an alternate member for that business associated with the conflict of interest.

D. Discussion of Board Cases

Board members shall refrain from discussing upcoming matters of business with any parties, including other Board members, prior to the meeting at which such items are to be publicly discussed; provided however, that members may receive and/or seek general technical information pertaining to the case from the Secretary, Town Clerk, Town Attorney or Town Planner prior to the Board meeting at which the case is to be heard.

VI. MEETINGS

A. Regular Meetings

Regular meetings of the Board shall be held on the (fill in day of week and week of month) of each month at (fill in time) at the Troutman Town Hall; provided that meetings may be held at any other conveniently located place in the Troutman area if directed by the Chair in advance of the meeting. Each member (including the alternate members) shall be notified of each meeting by the Secretary.

B. Special Meetings

Special meetings of the Board may be called at any time by the Chair provided that at least forty-eight (48) hours written notice of the time and place of a special meeting be given by the Secretary to each member of the Board including the alternate members.

C. Cancellation of Meetings

Whenever there is no business for the Board, or whenever so many regular and alternate members notify the Secretary of their inability to attend that a quorum will not be available, the Chair may dispense with a meeting by having the Secretary give written or oral notice to all members prior to the time set for the meeting.

D. Voting

The Board shall not pass upon an appeal, or application for a variance, temporary use permit, or expansion of a nonconformity when there are less than four (4) voting members present. No more than (5) regular and alternate members may vote on any matter for which a public hearing

was held. Unless as otherwise specified, voting on procedural matters which does not necessitate a public hearing shall include all regular and alternate members in attendance. The Chair shall be able to vote on any matter, including making and seconding a motion. No Board member shall vote on any matter deciding an application unless they shall have attended the public hearing on that application. Voting on any issue shall be done by a show of hands or by voice, as directed by the Chair. An abstention shall be counted as a "yes" vote.

E. Conduct of Meetings

All meetings shall be open to the public. The order of business at regular meetings shall be as follows, except as may be altered by the Chair:

- (a) Determination of Quorum
- (b) Approval of Minutes of Previous Meetings
- (c) Hearing of Cases
- (d) Other Business
- (e) Adjourn

F. Continuation of Meetings

Meetings may be continued from one date to another provided that the reconvened meeting occurs at least forty-eight (48) hours thereafter, and such meeting is held in a conveniently located meeting site in the Troutman area.

VII. APPEALS, APPLICATIONS, PUBLIC HEARINGS

A. Types of Appeals

The Board shall hear and decide all appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator

B. Procedure for Filing Applications

No appeal shall be heard by the Board unless a completed application for an appeal is filed within thirty (30) days after the interested party or parties received notice of the order, requirement, decision, or determination by the Zoning Administrator. All such applications and applications for variances, temporary use permits, and change in nonconformities shall be filed with the Town Clerk. All applications shall be made upon the form furnished by the Town for that purpose, and all information required thereon shall be complete before an application shall be considered as having been filed.

C. Conduct of Public Hearing

Any Board public hearing shall be conducted in a quasi-judicial manner. Any party may appear in person or by agent or by attorney at the hearing. All persons presenting evidence before the Board shall be placed under oath by a person authorized by law to administer oaths, and the opposing party may cross-examine them. The Chair may place reasonable and equitable limitations on the presentation of evidence, arguments, and cross-examination of witnesses so that the matter at hand is heard without undue delay. The order of business for public hearings shall be as follows:

1. The Chair, or such person as they shall direct, shall give a preliminary statement of the case;

2. Persons giving testimony shall be asked to be sworn in;
3. The applicant shall present the argument in support of his application;
4. Persons opposed to granting the application shall present the argument against the application;
5. Other persons in favor of granting the application shall present the argument for the application;
6. Both sides will be permitted to present rebuttals to opposing testimony;
7. The Chair, or their designee, shall summarize the evidence which has been presented, giving parties the opportunity to make objections or corrections;
8. The Chair shall close the period for public discussion. The Board shall publicly discuss the case without further general input from the public. Board members, however, may seek clarification, etc. from persons eligible to give evidence who are seated in the audience on any piece of evidence heretofore presented. Cross-examination and rebuttals may be made only on any such new evidence presented;
9. The Board shall render a decision on the matter or, if it so chooses, continue the public hearing to a publicly stated date, time, and location at least forty-eight hours thereafter. No further notice of a continued hearing need be made unless a period of four (4) weeks or more elapses between hearing dates.

F. Decisions

Written notice of the decision of a case shall be sent by first class mail to every party who has filed a written request for such notice with the Secretary or the Chair on or before the date the public hearing was held. Such notice shall be mailed by first class mail within five (5) working days after the case is decided. The final decision of the Board shall be filed in Town Hall. The final decision shown in the record of the case shall be entered in the minutes of the Board. Such records shall show the reasons for the determination, with a summary of the evidence introduced and the findings of fact made by the Board.

VI. AMENDMENTS

These rules, within the limits allowed by law, may be amended at any time by an affirmative vote of a majority of the entire membership of the Board, provided that such amendment be presented in writing at a meeting preceding the meeting at which the vote is taken.

ADOPTED/AMENDED: _____ CHAIR

SECRETARY

ADOPTION/AMENDMENTS:

Adopted: August 1997
Amended: July, 2021