

Joann M. McDermon, Mayor
Mike Benson, Mayor Pro Tem



Alice Derian, ICMA-CM
Town Manager

Aldermen:
Fred Fontana
Richard Grant
Tom Leonard
Connie Pletl

Nancy Avery
Interim Town Clerk

Issue: BYLAWS, RULES OF PROCEDURE AND COMPOSITION

Department: Planning

Prepared by: Deborah J. Hill MPA AICP CFM CZO

Presentation: Yes

At the Board of Aldermen meeting on November 1, 2023, Alderman Grant made a motion to remove from the agenda, under IX. Continued Business: D. Planning Board membership (Alderman Grant) and E. Discussion and possible action regarding UDO Article 2, "et seq"(Attorney Edes). He stated that he had a number of discussions with the Planning Board Chair and some of the members had a suggestion — which he supports — that the Board of Aldermen and the Planning Board have a meeting (*to discuss Oceanfront setback directive*), rather than going back and forth.

Alderman Grant also requested to remove the second item, as he explained that essentially, it's a three-component thing; 1) Where — in our code of ordinances — are these going to be located, in the UDO or not?; 2) Rules and Procedures for the Boards, themselves; and then, 3) The ethics policy and procedures for appointment policy that they had been discussing. Alderman Grant stated that he thinks it's best to address those after a joint meeting.

Alderman Grant and the Town Attorney discussed that with the current board structure, the Planning Board can still meet and function and everything else; that the ordinance says we have a 7-member board and there are 2 vacancies right now. If you treat that the same way that you would the Board of Alderman on a vacancy, then a quorum would be 3; it's probably safer since it is a 7-member board, in theory, to have a quorum of 4, but as long as there's a quorum, they can continue to meet and conduct business.

PLANNING BOARD DUTIES AND RESPONSIBILITIES.

Pursuant to North Carolina General Statutes § 160D-301 and the Town's Unified Development Ordinance § 2.02.09, it shall be the duty of the Planning Board, in general, to:

- (A) To prepare, review, maintain, monitor, and periodically update and recommend to the Board of Aldermen a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.;
- (B) To facilitate and coordinate citizen engagement and participation in the planning process.
- (C) To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and

efficient manner.

- (D) To advise the Board of Aldermen concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.
- (E) To exercise any functions in the administration and enforcement of various means for carrying out plans that the Board of Aldermen may direct.
- (F) To provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.
- (G) Perform any other related duties that the Board of Aldermen may direct.

BYLAWS

The first reference to the Planning Board's Bylaws in the Board of Aldermen minutes is on June 6, 2002. Mr. Jim Milligan presented the *Planning Board Report* stating that the committee had completed the revision of the Bylaws.

REQUEST TO ADDRESS THE BOARD:

Planning Board Report: Jim Milligan expressed his appreciation for the re-appointment of members to the Planning Board and selecting two alternates. The Committee has completed the revision of the Bylaws. The Planning Committee also reviewed the Land Use Plan. They had a workshop on the rules and regulations on

Figure Excerpt from Board of Aldermen minutes 6/6/2006

The second reference to *the adoption of Planning Board Bylaws* (attachments 1) on 9/5/2002.

PLANNING BOARD BYLAWS:

Alderman O'Donnell requested some changes to the Planning Board Bylaws. *Alderman O'Donnell moved, seconded by Alderman Smith approval of the Planning Board Bylaws with appropriate changes. The motion passed unanimously.*

Mayor Bostic cautioned the Board, that when Board members attend planning board meetings, himself included, that we have to be careful of how we speak, since we could influence some decisions.

Mr. Betz noted that in a special use hearing, if there is a board member attending, they should just be observing and not be a participant. Alderman Sandberg said that when a Board member speaks they should not be stated as an Alderman. Mayor Pro Tem Flynn noted that the Institute of Government states that the law does not intend the individual citizen to not have the opportunity to speak on an issue affecting them, but they do not have the authority to go before a board.

Alderman O'Donnell stated that there was an incident where he was opposed to rezoning and he acted as a citizen since the property was across from him. He felt that he shouldn't have to recuse himself from voting. Alderman Sandberg said that she shouldn't lose her right of freedom of speech. Attorney Fairley noted that in the interpretation, you may participate, but you may not participate in voting. She said that she would check on updates on this issue.

Figure Excerpt from Board of Aldermen minutes September 5, 2002

RULES OF PROCEDURE

The *Planning Board Rules of Procedure* were adopted on October 13, 2011. (attachment 3) and were generally reviewed annually during the Organizational Meeting and especially when new members were appointed. The *Rules of Procedure* were based on the template with comments by Fleming Bell. The latest edition (attachment 4) was reviewed, revised and readopted at the September 9, 2022, Planning Board meeting.

COMPOSITION

The composition of the Planning Board was passed by Ordinance on 3-5-1992; on 6-6-2002, Mr. Jim Milligan expressed his appreciation for the re-appointment of members to the Planning Board and selecting two alternates.

REQUEST TO ADDRESS THE BOARD:

Planning Board Report: Jim Milligan expressed his appreciation for the re-appointment of members to the Planning Board and selecting two alternates. The Committee has completed the revision of the Bylaws. The Planning Committee also reviewed the Land Use Plan. They had a workshop on the rules and regulations on

Figure Excerpt from Board of Aldermen minutes 6/6/2002

Planning Board – Jim Milligan, Chairman:

Mr. Milligan noted that the Planning Board met on August 8th. Mr. Milligan said he would appreciate the Board appointing Mr. Dorazio as a full member and Mr. Hunt as an alternate to the Planning Board. He would also be grateful if we could provide the committee with a new second alternate. A public meeting was held at which time Mr. Dorazio presented a report on the

Figure Excerpt from Board of Aldermen minutes 9/5/2002

ARTICLE I. PLANNING BOARD*

***Cross references:** Board of aldermen, §§ 2-26 et seq.; town manager, § 2-111.

State law references: Planning board authorized, G.S. 160A-361 et seq.; zoning provisions, G.S. 160A-381 et seq.; urban renewal projects, G.S. 160A-500 et seq.

Sec. 7-1. Creation.

The North Topsail Beach planning board is created under the authority of the G.S. 160A-361 et seq.

(Ord. of 3-5-92, § I)

Sec. 7-2. Composition.

The planning board shall consist of seven (7) members, who shall be citizens and residents of the town. In considering the appointment of members to the planning board, the board of aldermen shall avoid appointments which may create the appearance of a conflict of interest or an incompatible position in office holding. The mayor may appoint one (1) member of the board of aldermen as a liaison member to the planning board and such member shall have no vote.

(Ord. of 3-5-92, § II)

In addition to the seven members of the planning board, there shall be two alternates. These alternates are appointed by the board of aldermen, and should adhere to the same qualifications and term durations as members of the planning board. These alternates shall be designated by the board of aldermen as first and second alternates. The role of alternates is as follows:

- 1) The alternates shall attend all planning board meetings and other planning board functions.
- 2) If a primary member of the planning board is absent from a meeting, the first alternate shall, for the duration of the meeting, function as a primary member of the planning board, with full voting responsibilities. If a second primary member is absent, the second alternate shall, for the duration of the meeting, function as a primary member of the planning board, with full voting responsibilities.
- 3) If all primary members of the planning board are in attendance at a meeting, the alternate members may participate in discussions, questioning presenters, etc, but are not voting members.

The chairman of the planning board must be a primary member, not an alternate.
(Ord. of 6-6-06)

Sec. 7-3. Appointments.

Composition of Planning Board:

The Planning Board met on March 9, 2006, to review additions to **Sec. 7-2 Composition** pertaining to Planning Board Alternates, a public hearing was held during the meeting as required (several citizens were in attendance and no one spoke at the meeting concerning this issue), the Planning Board reviewed the Alternate ordinance addition and the recommendations by the Town Attorney, Mr. Kilroy. The Planning Board voted 6 to one to send this Planning Board Alternate addition to ordinance **Section 7-2, Composition** to the Board of Aldermen for review and approval.

Alderman Tuman said that alternates serve the position as alternates and appointments to Planning Board are made by the Board of Aldermen and he would therefore strike number 4. Aldermen Handy and Farley agreed since it is their responsibility to appoint members. If you have two alternates who are brand new and if we lost two members you could bring in someone with a three year term. You should reappoint permanent members and alternates could be among the candidates. Alderman Tuman agreed that if they strike number 4 there would be no other problems. Mr. Yawn noted that this should be applicable to the Board of Adjustments as well. Alderman Tuman said that the ordinance provides for the appointment of an alternate and it requires action of the Board of Aldermen.

Mayor Pro Tem Hardison asked what the objection was to the vote and Sue Tuman said that they have 3 years, 2 years and 2 years as appointments to the Planning Board. Each year should be 3 one year 2 on schedule and 2 on schedule with the majority of the Board having been there and having experience.

Figure Excerpt from Board of Aldermen minutes 6/1/2006

Although the following Board of Aldermen minutes are about the lack of a quorum for the Zoning Board of Adjustment, Attorney Kilroy's comments regarding the importance of setting a consistent day of the month for members' scheduling purposes. Mr. Jerry Convey explains that they only had 5 members on the ZBA with no alternates and we run into situations when members are not available.

e. Board of Adjustment Members:

The Board of Adjustment has not been able to meet since they have not had a quorum each month with members being out of town.

Attorney Kilroy has noted in his June 13, 2006 letter that there are three matters pending that cannot be addressed because of a lack of quorum. He has suggested that the members who have not been able to attend to step

down and that a request for new members be made. A notice was given to the local papers to advertise this need in next week's issues of the Topsail Voice and Advertiser.

Attorney Kilroy said that we created the Board of Adjustment and gave folks rights and property owners have the right to appeal decisions and the right to request variances and when we create rights we have to give them a way to be heard. This Board of Adjustment has become dysfunctional and we are letting them decide when they want to meet. The best solution is to designate a day of the month and Mrs. Carbone noted that the regular meeting time is the 3rd Thursday of the month. Attorney Kilroy said that if they cannot be here, then we need to replace them and they serve at the pleasure of the Board.

Jerry Convy said that they five members and no alternates and we run into situations when members are not available. There is no attempt to make an alternative date. Alderman Farley thought that if they had four members that it was okay and Mr. Convy said they had to have five for a quorum. Alderman Tuman said if we don't have an acting Board of Adjustment and if the Town can't count on volunteers, then the responsibility falls back on the Board of Aldermen to act as the Board of Adjustment. He suggested to continue to try to get volunteers and give it another month and then the following scheduled meeting be handled by the Aldermen. Mayor Pro Tem Hardison appealed to everyone to tell their neighbors and that there were interesting things that people deal with and they make decisions on serious items. Alderman Peters asked if they could designate members of our Board as alternates and still have existing members of the Board of Adjustments and Attorney Kilroy said that is not a good practice and we need to keep it separate. Alderman Farley said that they had adopted a policy that no alderman will be on standing committees.

Figure Excerpt from Board of Aldermen minutes 7/1/2006

On Wednesday, November 2, 2011, the Board of Aldermen held a Special Meeting and held a Public Hearing on the Unified Development Ordinance.

- Mayor Pro Tem Yawn made a motion for the Board of Aldermen to adopt Resolution 2011-15 (A Resolution to Adopt a Unified Development Ordinance and Repeal All Existing Ordinances Now Incorporated in the Unified Development Ordinance) with an addition to the resolution to include a statement indicating that the Board approves the changes made today.
- Alderman Swantek seconded the motion.
- There was discussion.
- The motion passed unanimously.

Figure Excerpt from Board of Aldermen minutes 11/2/2011

The current UDO was adopted July 1, 2021, and included legislative updates by NCGS 160d as well as the requirements for Article 7. Flood Damage Prevention and the adoption of the Flood Insurance Rate Maps (FIRM).

COMPARISON TO OTHER LOCAL PLANNING BOARDS

Holly Ridge Planning Board:

5 Regular Members: 3 Town Regular Members, 2 ETJ Regular Members

2 Alternates: 1 Town Alternate Member, 1 ETJ Alternate Member (Vacant)

Surf City Planning Board:

8 regular members, with one of those being an ETJ representative. 2 alternates.

Topsail Beach Planning Board:

Ou PB has 5 regular members (no alternates)

RECOMMENDATION Recognizing that the Board of Aldermen have the unquestionable and legal prerogative to amend the Planning Board Bylaws, Rules of Procedure and Unified Development Ordinance §2.02.02 (A) and (B), these documents have served to foster two well-organized and functioning boards. On this basis, that the Planning Board recommends to the Board of Aldermen, that no changes be made, as:

1. A 7-member, 2-alternate composition allows for the routine absence of some members, while still having the ability to have a quorum and carry out its duties and responsibilities, without delay;
2. 7 members and 2 alternates provide a diverse sampling of the overall concerns and priorities of the citizens of North Topsail Beach, while still allowing for civil dialogue to form a consensus and provide sound and reasonable recommendations to the Board of Aldermen;
3. 7 members and 2 alternates provide greater opportunity for interested citizens to serve the Town;
4. 7 members and 2 alternates provide for alternates to become regular members, after having gained training and experience by actively participating in the execution of the duties and responsibilities of the Planning Board;

ATTACHMENTS

1. Planning Board Bylaws (2002).
2. Planning Board Rules of Procedure (2011)
3. Planning Board Rules of Procedure (2022)

TOWN OF NORTH TOPSAIL BEACH

BYLAWS

NORTH TOPSAIL BEACH PLANNING BOARD

ARTICLE I; NAME AND ORGANIZATION

The North Topsail Beach Planning Board is created under the authority of the G.S. 160A-361 and other general and special acts pertaining to planning and related activities in North Topsail Beach as well as policies established by the Planning Board and the Board of Aldermen.

ARTICLE II; PURPOSE AND DUTIES OF THE PLANNING BOARD

The Planning Board is charged with protecting the public health, safety and welfare as it pertains to the orderly growth and development of North Topsail Beach. For this purpose, the Planning Board is allowed by North Topsail Beach Town Ordinance; Section 7, to perform the following duties:

- A. Consider subdivision or development plans as they relate to the Town's ordinance and Land Use Plan in order to determine the consistency of applications with all applicable local, state and federal ordinances, restrictions and regulations; any plan found to be inconsistent and denied approval shall be documented as such with the corresponding finding of fact establishing an inconsistency and be made a part of the permanent record of the proceeding of the Planning Board;
- B. Make studies of the town to include making and maintaining a suggested master plan for the physical development of the town or modified parts of such plan as the planning board and board of aldermen may deem best;
- C. Develop and recommend policies, ordinances (zoning, land use plan, hazard mitigation, etc..) administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
- D. Advise the Board of Aldermen concerning the use and amendment of means for carrying out plans;
- E. Perform any other related duties that the Board of Aldermen may direct.

ARTICLE III; MEMBERSHIP

SECTION 1: The Planning Board shall consist of seven (7) voting members who shall serve staggered terms. Each member shall be appointed for three (3) year terms.

SECTION 2: All members and successors shall be appointed by the Board of Aldermen

SECTION 3: Vacancies occurring for reasons other than expiration of terms shall be filled by the Board of Aldermen; as such vacancies occur, for the period of the unexpired term. A vacancy shall exist on the planning board if a member is absent (unexcused) from twenty-five percent or more of the planning board's regular meetings within a one (1) year period.

SECTION 4: The Board of Aldermen may appoint alternate members to the Planning Board as needed.

SECTION 5: Members shall be limited to two (2) consecutive full three year terms. The Board of Aldermen, at its discretion, may consider a waiver of this limitation to allow service beyond the two consecutive full terms when the Board deems it to be in the best interest of North Topsail Beach.

SECTION 6: The Mayor may appoint one (1) member of the Board of Aldermen as a liaison member to the planning board and such member shall have no vote.

ARTICLE IV; ATTENDANCE

Faithful attendance to include alternates, at all regular, special and workshop meetings of the Board is considered a prerequisite for the maintenance of membership on the Board.

SECTION 1: A member of the Planning Board may be removed for the following reasons:

- a. Unexcused absences from three (3) regular meetings;
- b. Absence from five (5) regular meetings during an appointed year, whether such absences are excused or unexcused;
- c. Upon receipt of a letter of resignation from the member to the North Topsail Beach Board of Aldermen.

SECTION 2: For the purpose of Article IV. Attendance, the Planning Board shall make a recommendation to the North Topsail Beach Board of Aldermen stating the recommended action and the reasons therefore for removal of a member.

- a. An unexcused absence shall be defined as failure to notify the Planning and Zoning Administrator or the Chairman of non-attendance by the close of the business day, 5:00 p.m. of the same day as the Planning Board meeting.
- b. Alternates are required to attend regular planning board meetings.

ARTICLE V: OFFICERS AND THEIR DUTIES

SECTION 1: ELECTION OF OFFICERS: The Planning Board shall elect a Chairman and a Chairman Pro-Tem from its membership. Election of officers shall be by majority vote of the quorum in attendance. The election of officers shall take place at the regular monthly meeting in December of each year.

SECTION 2: CHAIRMAN: The Chairman shall preside over all meetings and shall conduct all meetings in an orderly manner while providing for public participation and open debate of all matters appearing on the agenda for consideration.

SECTION 3: CHAIRMAN PRO-TEM: The Chairman Pro-Tem shall serve as acting Chairman in the absence of the Chairman and shall have the same powers and duties as the Chairman when presiding.

SECTION 4: RECORDING SECRETARY: The Deputy Town Clerk shall serve as Recording Secretary. The Planning and Zoning Administrator shall keep the minutes of all Planning Board proceedings; keep records of attendance, resolutions and votes; and notify the membership, news media and the public of the meetings of the Planning Board. Copies of the agenda of the Planning Board shall be forwarded to the Town Manager's office on a monthly basis.

ARTICLE VI: VOTING

SECTION 1: It shall be the duty and responsibility of each member of the Planning Board who has been duly appointed by the Board of Aldermen to vote on each and every issue unless a conflict of interest exists. No member of the Planning 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 him/her or their business interest. A member of the Planning Board maybe excused from voting if so excused by a majority of the remaining Planning Board members upon a determination of sufficient grounds for such abstention. If an abstention request is denied, an abstention shall be considered a vote with the majority vote of the Planning Board so recorded. An abstention shall be recorded as such with explanation by the Recording Secretary of the Planning Board.

SECTION 2: Four (4) of the seven members of the Planning Board shall constitute a quorum.

SECTION 3: In the event, a regular member is absent then the senior alternate will assume the place of a missing regular member during that meeting. If two members of the Board are missing than the second alternate will assume that member's place. Both alternates will have full duties as voting members.

SECTION 4: Official business shall not be conducted unless a quorum is present.

SECTION 5. A minimum of a simple majority of the quorum present and voting in the affirmative shall be necessary to pass a motion.

SECTION 6. Members of the Planning Board shall not commit themselves on any question scheduled to be considered by the Board, prior to a consideration of the matter at a duly authorized meeting. Members shall use discretion in discussing with individuals scheduled agenda items, which are later to be voted upon by the Planning Board.

ARTICLE VII: MEETINGS

SECTION 1. The Planning Board shall hold a monthly meeting at a place and time it so designates.

SECTION 2. Special meetings of the Planning Board may be called by the Chairman or by a majority of the Planning Board at any time. Notice of any special meeting shall be given at least two days (48 hours) in advance and shall state the purpose thereof and the time and place of said meeting. Notice of meeting must be given in writing and may be posted or delivered.

SECTION 3. The place at which meetings shall be held shall be stated in the notice and call of all meetings. Notice of the time and place of regular meetings of the members shall be given by mailing written notice of printed notice. Notice of all regular meetings shall be picked up by each Planning Board member so that they receive said notice not less than two (2) days before the meeting. Notice of all regular meetings shall contain a proposed agenda of business to be transacted. Notice of **all** meetings shall be given to the news media and the public in accordance with the North Carolina Open Meetings Law. Meetings may be cancelled by like notice.

SECTION 4. Before any recommendation is made by the Planning Board to the Board of Aldermen, the Planning Board may hold at least one (1) public hearing thereon.

ARTICLE VIII: CONDUCT OF MEETING.

SECTION 1. The order of business in regular meetings shall be as determined by the Planning Board.

SECTION 2. All meetings shall be open to the public.

SECTION 3. The Chairman at their discretion may impose time limits upon those desiring to speak.

SECTION 4. At the close of discussion on matters heard in public hearings the Chairman may:

- a. call for a formal motion, a second and a vote by the members for or against the motion;
- b. call for a formal motion, a second and a vote by the members to table or continue the matter being heard until such time as additional necessary information maybe obtained.

ARTICLE IX: AMENDMENTS

SECTION 1. The North Topsail Beach Board of Aldermen reserves the right to amend these bylaws as is deemed to be in the best interest of North Topsail Beach.

SECTION 2. Requests for amendments to these bylaws maybe initiated by the Planning Board or by the Board of Aldermen. However, when such amendment is initiated by the Board of Aldermen, it may, at its discretion, submit the proposed amendment to the Planning Board for review and comment.

SECTION 3. An affirmative vote of a majority of the full membership of the Planning Board shall be required on any proposed amendment, which is initiated by the Planning Board

ARTICLE X: EFFECTIVE DATE.

The Planning Board has recommended these bylaws, as amended, to the Board of Aldermen on the _____ day of _____ 2002. These bylaws, as amended, shall become effective on the _____ day of _____ 2002. Adopted on the _____ day of _____ 2002.

Chairman, Planning Board

Mayor, North Topsail Beach

Town of North Topsail Beach

Planning Board

Rules of Procedure

Rule 1. Regular Meetings

The Planning Board shall hold a regularly scheduled meeting on the second Thursday of each month, except that if a regular meeting day is a legal holiday, the meeting shall be held on a day to be determined by the chair. The meeting shall be held in the first floor conference room at the North Topsail Beach Town Hall and shall begin at 6:30 p.m. A copy of the Planning Board's current meeting schedule shall be filed with the Town Clerk and posted on the Planning Board's webpage, <http://ntbnc.org/pb.aspx>.

Rule 2. Special, Emergency, and Recessed [or Adjourned] Meetings

(a) Special Meetings. The chair or a majority of the members may at any time call a special meeting of the Planning Board. At least forty-eight hours before a special meeting called in this manner, written notice of the meeting stating its time and place and the subjects to be considered shall be (1) given to each Planning Board member; (2) posted on the entrance to Town Hall; (3) posted on the Planning Board's webpage, <http://ntbnc.org/pb.aspx>; and (4) any person who has filed a written request for notice with the Town Clerk.

A special meeting may also be called or scheduled by vote of the Planning Board in open session during another duly called meeting. The motion or resolution calling or scheduling the special meeting shall specify its time, place, and purpose. At least forty-eight hours before a special meeting called in this manner, notice of the time, place, and purpose of the meeting shall be (1) posted on the entrance to Town Hall; (2) posted on the Planning Board's webpage, <http://ntbnc.org/pb.aspx>; and (3) any person who has filed a written request for notice with the Town Clerk. Such notice shall also be mailed or delivered at least forty-eight hours before the meeting to each Planning Board member not present at the meeting at which the special meeting was called or scheduled.

Only those items of business specified in the notice may be discussed or transacted at a special meeting, unless (1) all members are present and (2) the Planning Board determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

(b) Emergency Meetings. The chair or a majority of the members may at any time call an emergency meeting of the Planning Board by signing a written notice stating the time and place of the meeting and the subjects to be considered. Written or oral notice of the meeting shall be given to each Planning Board member and to the media that has filed a written emergency meeting notice request with the Planning Board's clerk, and whose request includes the newspaper's, wire service's, or station's telephone number. Notice to the news media shall be given at the expense of the party notified.

Emergency meetings may be called only because of generally unexpected circumstances that require immediate consideration by the Planning Board. Only business connected with the emergency may be considered at an emergency meeting.

(c) Recessed [or Adjourned] Meetings. A properly called regular, special, or emergency meeting may be recessed or adjourned to a time and place certain by a procedural motion made and adopted as provided in Rule 16(b), Motion 2, in open session during the regular, special, or emergency meeting. The motion shall state the time and place when the meeting will reconvene. No further notice need be given of such a recessed or adjourned session of a properly called regular, special, or emergency meeting.

Rule 3. Organizational Meeting

On the date and at the time of the first regular meeting in May, the newly appointed members shall take and subscribe the oath of office as the first order of new business. As the second order of new business, the Planning Board shall elect a chair and vice chair, if he or she is not otherwise selected, using one of the nomination and voting procedures set out in Rule 24.

Rule 4. Agenda

(a) Proposed Agenda. The Planning Board's clerk or the Planning Director shall prepare a proposed agenda for each meeting. A request to have an item of business placed on the agenda must be received at least five working days before the meeting. Any Planning Board member may, by a timely request, have an item placed on the proposed agenda. A copy of all proposed orders, policies, regulations, and resolutions shall be attached to the proposed agenda. An agenda package shall be prepared that includes, for each item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce. Each Planning Board member shall receive a copy of the proposed agenda and the agenda package and they shall be available for public inspection and/or distribution when they are distributed to the Planning Board members.

(b) Adoption of the Agenda. As its first order of business at each meeting, the Planning Board shall, as specified in Rule 6, discuss and revise the proposed agenda and adopt an agenda for the meeting. The Planning Board may by majority vote add items to or

subtract items from the proposed agenda, except that the board may not add items to the agenda of a special meeting unless (a) all members are present and (b) the board determines in good faith at the meeting that it is essential to discuss or act on the item immediately. If items are proposed to be added to the agenda, the Planning Board may, by majority vote, require that written copies of particular documents connected with the items be made available at the meeting to all board members.

The Planning Board may designate certain agenda items “for discussion and possible action.” Such designation means that the Planning Board intends to discuss the general subject area of that agenda item before making any motion concerning that item.

(c) Open Meetings Requirements. The Planning Board shall not deliberate, vote, or otherwise take action on any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the Planning Board to understand what is being deliberated, voted, or acted on. However, the Planning Board may deliberate, vote, or otherwise take action by reference to an agenda, if copies of the agenda—sufficiently worded to enable the public to understand what is being deliberated, voted, or acted on—are available for public inspection at the meeting.

Rule 5. Public Address to the Board

Any individual or group who wishes to address the Planning Board shall make a request to be on the agenda to the Planning Board’s clerk or the Planning Director. However, the Planning Board shall determine at the meeting whether it will hear the individual or group.

Rule 6. Order of Business

Items shall be placed on the agenda according to the order of business. The order of business for each regular meeting shall be as follows:

- Discussion and revision of the proposed agenda; adoption of an agenda
- Approval of the minutes
- Public comment
- Unfinished business
- New business
- Discussion

By general consent of the board, items may be considered out of order.

Rule 7. Presiding Officer

The chair of the Planning Board shall preside at Planning Board meetings if he or she is present, unless he or she becomes actively engaged in debate on a particular matter. The chair may vote in all cases. In order to address the Planning Board, a member must be recognized by the chair.

If the chair is absent, the vice-chair shall preside. If both the chair and vice-chair are absent, another member designated by vote of the Planning Board shall preside. The vice-chair or another member who is temporarily presiding retains all of his or her rights as a member, including the right to make motions and the right to vote.

If the chair becomes actively involved in debate on a particular matter, he or she may designate another Planning Board member to preside over the debate. The chair shall resume presiding as soon as action on the matter is concluded.

The presiding officer shall have the following powers:

1. To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule on objections from other members on this ground;
3. To entertain and answer questions of parliamentary law or procedure;
4. To call a brief recess at any time;
5. To adjourn in an emergency.

A decision by the presiding officer under any of the first three powers listed may be appealed to the Planning Board upon motion of any member, pursuant to Rule 16, Motion 1. Such a motion is in order immediately after a decision under those powers is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion, if timely made, may not be ruled out of order.

Rule 8. Action by the Board

The Planning Board shall proceed by motion, except as otherwise provided for in Rules 3, 4, and 24. Any member, including the chair, may make a motion.

Rule 9. Second Not Required

Any motion requires a second.

Rule 10. One Motion at a Time

A member may make only one motion at a time. There can be only one motion before the Planning Board at a time.

Rule 11. Substantive Motions

A substantive motion is out of order while another substantive motion is pending.

Rule 12. Adoption by Majority Vote

A motion shall be adopted by a majority of the votes cast, a quorum as defined in Rule 21 being present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

Rule 13. Voting by Written Ballot

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(b) Order of Priority of Motions. In order of priority (if applicable), the procedural motions are

Motion 1. To Appeal a Procedural Ruling of the Presiding Officer. A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the board, as specified in Rule 7. This appeal is in order immediately after such a decision is announced and at no other time. The member making the motion need not be recognized by the presiding officer and the motion, if timely made, may not be ruled out of order.

Motion 2. To Adjourn. This motion may be made only at the conclusion of action on a pending substantive matter; it may not interrupt deliberation of a pending matter. A motion to recess or adjourn to a time and place certain shall also comply with the requirements of Rule 2(c).

Motion 3. To Take a Brief Recess.

Motion 4. Call to Follow the Agenda. The motion must be made at the first reasonable opportunity or it is waived.

Motion 5. To Suspend the Rules. The Planning Board may not suspend provisions of the rules that state requirements imposed by law on the board. For adoption, the motion requires an affirmative vote equal to a majority of the entire membership of the Planning Board. A majority is more than half.

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(a) An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to amend.

(b) A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote.

(c) Any amendment to a proposed order, policy, regulation, or resolution shall be reduced to writing before the vote on the amendment.

Motion 12. To Revive Consideration. The board may vote to revive consideration of any substantive motion earlier deferred by adoption of Motion 9 of Rule 16(b). The motion is in order at any time within [100] days after the day of a vote to defer consideration. A substantive motion on which consideration has been deferred expires [100] days after the deferral unless a motion to revive consideration is adopted.

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Motion 14. To Rescind or Repeal. The board may vote to rescind actions it has previously taken or to repeal items that it has previously adopted. The motion is not in order if rescission or repeal of an action is forbidden by law.

Motion 15. To Prevent Reintroduction for Three (3) Months. The motion shall be in order immediately following the defeat of a substantive motion and at no other time. The motion requires for adoption a vote equal to a majority of the entire membership of the board. If adopted, the restriction imposed by the motion remains in effect for three (3) months or until the next organizational meeting of the board (i.e., new members), whichever occurs first.

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A motion that is defeated may be renewed at any later meeting unless a motion to prevent reconsideration has been adopted.

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A motion may be withdrawn by the introducer at any time before it is amended or before the chair puts the motion to a vote, whichever occurs first.

Rule 19. Duty to Vote

Each member shall be permitted to abstain from voting, by so indicating when the vote is taken. 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 in the board chamber, or who has withdrawn without being excused by a majority vote of the remaining members present shall be recorded as an affirmative vote.

Rule 20. Special Rules of Procedure

The Planning Board may adopt its own special rules of procedure, to be specified here.

Rule 21. Quorum

A majority of the actual membership of the board shall constitute a quorum. A majority is more than half. The chair shall be considered a member of the board in determining the number on which a majority is based and in counting the number of members actually present. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

Rule 22. Public Hearings

Public hearings required by law or deemed advisable by the Planning Board shall be organized by a special order that sets forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time allotted for each speaker, and other pertinent matters. The special order is adopted by a majority vote. Its specifications may include, but are not limited to, rules fixing the maximum time allotted to each speaker; providing for the designation of spokespersons for groups of persons supporting or opposing the same positions; providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall (so long as arrangements are made, in the case of hearings subject to the open meetings law, for those excluded from the hall to listen to the hearing); and providing for the maintenance of order and decorum in the conduct of the hearing.

All notice and other requirements of the open meetings law applicable to Planning Board meetings shall also apply to public hearings at which a majority of the Planning Board is present; such a hearing is considered to be part of a regular or special meeting of the board. These requirements also apply to hearings conducted by appointed or elected committees of board members, if a majority of the committee is present. A public hearing for which any required notices have been given may be continued to a time and place certain without further advertisement. The requirements of Rule 2(c) shall be followed in continuing a hearing at which a majority of the board, or of a board committee, as applicable, is present.

At the time appointed for the hearing, the Planning Board shall vote to open the hearing and the chair or his or her designee shall call the hearing to order and then preside over it. When the allotted time expires, or earlier, if no one wishes to speak who has not done so, the presiding officer shall declare the hearing ended.

Rule 23. Minutes

Full and accurate minutes of the Planning Board proceedings, including closed sessions, shall be kept. The Planning Board shall also keep a general account of any closed session so that a person not in attendance would have a reasonable understanding of what

transpired. These minutes and general accounts shall be open to inspection of the public, except as otherwise provided in this rule. The exact wording of each motion and the results of each vote shall be recorded in the minutes, and on the request of any member of the board, the entire board shall be polled by name on any vote. Members' and other persons' comments may be included in the minutes if the board approves.

Rule 24. Appointments

Members of the Planning Board and successors in office to the Planning Board shall be appointed by the Board of Aldermen. Members of the Planning Board shall be appointed by the Board of Aldermen. The Planning Board shall use the following procedure to select a chair and vice chair. The chair shall open the floor for nominations, whereupon the names of possible chair and vice chair may be put forward by individual members. The names submitted shall be debated. When the debate ends, the chair shall call the roll of the members and each member shall cast his or her vote. The nominees for chair and vice chair receiving the highest number of votes shall be appointed.

Rule 25. Committees and Boards

(a) **Establishment and Appointment.** Appointments of any non-Planning Board member to any subcommittee or advisory committee of the Planning Board must first be approved by the Board of Aldermen.

(b) **Open Meetings Law.** The requirements of the open meetings law shall apply to all elected or appointed authorities, boards, commissions, councils, or other bodies of a local governmental unit that are composed of two or more members and that exercise or are authorized to exercise legislative, policy-making, quasi-judicial, administrative, or advisory functions. However, the law's requirements shall not apply to a meeting solely among a unit's professional staff.

Rule 26. Amendment of the Rules

These rules may be amended at any regular meeting or at any properly called special meeting that includes amendment of the rules as one of the stated purposes of the meeting, unless a statute or a rule of the Board of Aldermen provides otherwise. Adoption of an amendment shall require an affirmative vote equal to a quorum.

Rule 27. Reference to *Robert's Rules of Order*

The Planning Board shall refer to the current edition of *Robert's Rules of Order Newly Revised*, to answer procedural questions not resolved in these rules, so long as *RONR* does not conflict with North Carolina law or with the spirit of these rules.

Town of North Topsail Beach

Planning Board

Rules of Procedure

Rule 1. Regular Meetings

The Planning Board shall hold a regularly scheduled meeting on the second Thursday of each month, except that if a regular meeting day is a legal holiday, the meeting shall be held on a day to be determined by the chair. The meeting shall be held in the first floor conference room at the North Topsail Beach Town Hall and shall begin at 5:00 p.m. A copy of the Planning Board's current meeting schedule shall be filed with the Town Clerk and posted on the Planning Board's webpage, <http://ntbnc.org/pb.aspx>.

Rule 2. Organizational Meeting

On the date and at the time of the first regular meeting in May, the newly appointed members shall take and subscribe the oath of office as required by GS 160D-309 as the first order of new business. As the second order of new business, the Planning Board shall elect a chair and vice chair, if he or she is not otherwise selected, using one of the nomination and voting procedures set out in Rule 24.

Rule 3. Agenda

(a) Proposed Agenda. The Planning Board's clerk or the Planning Director shall prepare a proposed agenda for each meeting. A request to have an item of business placed on the agenda must be received at least five working days before the meeting. Any Planning Board member may, by a timely request, have an item placed on the proposed agenda. A copy of all proposed orders, policies, regulations, and resolutions shall be attached to the proposed agenda. An agenda package shall be prepared that includes, for each item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce. Each Planning Board member shall receive a copy of the proposed agenda and the agenda package and they shall be available for public inspection and/or distribution when they are distributed to the Planning Board members.

(b) Adoption of the Agenda. As its first order of business at each meeting, the Planning Board shall, as specified in Rule 6, discuss and revise the proposed agenda and adopt an agenda for the meeting. The Planning Board may by majority vote add items to or subtract items from the proposed agenda, except that the board may not add items to the agenda of a special meeting unless (a) all members are present and (b) the board

determines in good faith at the meeting that it is essential to discuss or act on the item immediately. If items are proposed to be added to the agenda, the Planning Board may, by majority vote, require that written copies of particular documents connected with the items be made available at the meeting to all board members.

The Planning Board may designate certain agenda items “for discussion and possible action.” Such designation means that the Planning Board intends to discuss the general subject area of that agenda item before making any motion concerning that item.

(c) Open Meetings Requirements. The Planning Board shall not deliberate, vote, or otherwise take action on any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the Planning Board to understand what is being deliberated, voted, or acted on. However, the Planning Board may deliberate, vote, or otherwise take action by reference to an agenda, if copies of the agenda—sufficiently worded to enable the public to understand what is being deliberated, voted, or acted on—are available for public inspection at the meeting.

Rule 4. Public Address to the Board

Any individual or group who wishes to address the Planning Board shall make a request to be on the agenda to the Planning Board’s clerk or the Planning Director. However, the Planning Board shall determine at the meeting whether it will hear the individual or group.

Rule 5. Order of Business

Items shall be placed on the agenda according to the order of business. The order of business for each regular meeting shall be as follows:

- Discussion and revision of the proposed agenda; adoption of an agenda
- Approval of the minutes
- Public comment
- Unfinished business
- New business
- Discussion

By general consent of the board, items may be considered out of order.

Rule 6. Presiding Officer

The chair of the Planning Board shall preside at Planning Board meetings if he or she is present, unless he or she becomes actively engaged in debate on a particular matter.

The chair may vote in all cases. In order to address the Planning Board, a member must be recognized by the chair.

If the chair is absent, the vice-chair shall preside. If both the chair and vice-chair are absent, another member designated by vote of the Planning Board shall preside. The vice-chair or another member who is temporarily presiding retains all of his or her rights as a member, including the right to make motions and the right to vote.

If the chair becomes actively involved in debate on a particular matter, he or she may designate another Planning Board member to preside over the debate. The chair shall resume presiding as soon as action on the matter is concluded.

The presiding officer shall have the following powers:

1. To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule on objections from other members on this ground;
3. To entertain and answer questions of parliamentary law or procedure;
4. To call a brief recess at any time;
5. To adjourn in an emergency.

A decision by the presiding officer under any of the first three powers listed may be appealed to the Planning Board upon motion of any member, pursuant to Rule 16, Motion 1. Such a motion is in order immediately after a decision under those powers is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion, if timely made, may not be ruled out of order.

Rule 7. Action by the Board

The Planning Board shall proceed by motion, except as otherwise provided for in Rules 3, 4, and 24. Any member, including the chair, may make a motion.

Rule 8. Second Not Required

Any motion requires a second.

Rule 9. One Motion at a Time

A member may make only one motion at a time. There can be only one motion before the Planning Board at a time.

Rule 10. Substantive Motions

A substantive motion is out of order while another substantive motion is pending.

Rule 11. Adoption by Majority Vote

A motion shall be adopted by a majority of the votes cast, a quorum as defined in Rule 21 being present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

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Members shall not vote on any advisory or legislative decisions regarding a development regulation adopted pursuant to G.S. 160D-109 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 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. At the beginning of consideration of a matter before the Planning Board, any member who has a potential conflict of interest whether direct or indirect shall notify the Chair of this conflict. The Chair shall excuse the member from further participation in the matter, including voting.

Rule 19. Special Rules of Procedure

The Planning Board may adopt its own special rules of procedure, to be specified here.

Rule 20. Quorum

A majority of the actual membership of the board shall constitute a quorum. A majority is more than half. The chair shall be considered a member of the board in determining the number on which a majority is based and in counting the number of members actually present. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

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