

**TOWN OF CLAYTON
BY-LAWS GOVERNING THE
BOARD OF ADJUSTMENT**

ARTICLE I

§ 32.010 ESTABLISHMENT

- (a) Establishment. The Board of Adjustment is established pursuant to G.S. § 160A-388 and Chapter 32 of the Town's Code of Ordinances.

ARTICLE II

MEMBERSHIP

- (a) Appointments. Board Members shall be selected from applications submitted to the Town of Clayton. Members of the Board shall be appointed by the Clayton Town Council. Membership shall consist of seven (7) members; five (5) regular members and two (2) alternates with four members residing in the corporate limits and three members residing within the town's extraterritorial jurisdiction (ETJ).
- (b) ETJ Position. Any member of the Board of Adjustment representing the ETJ shall be appointed by the Town Council, subject to approval by the Johnston County Board of County Commissioners.
- (c) Equal Rights. Pursuant to G.S. 160D-307(c), all members appointed to the Board of Adjustment from the town's ETJ shall have equal rights (including voting rights), privileges and duties with other members of the Board, regardless of whether the matters at issue arise within the town or within the ETJ.
- (d) Interviews. Interviews for this Board shall follow the established procedures in the Appointment to Advisory Boards Procedures policy.
- (e) Ex-officio Member. The Town Council shall appoint a Council Member to serve as an ex-officio member. The ex-officio member will not have a vote on items coming before the Board. The Town Council shall also appoint a staff member (liaison) to this Board.
- (f) Alternates. The process for appointing alternates shall follow the procedures in the Appointment to Advisory Boards Procedures policy. The alternates appointed to the Board will fill the position of Board Members that are absent at a meeting. The alternates will not have a vote on items coming before the Board unless they are filling in for a Board Member. Alternates are required to attend each scheduled meeting. In the case there is a resignation, death or otherwise, an alternate will fill that vacancy automatically. The Board Chair will nominate an alternate to fill the vacancy; Board Members shall approve this nomination.

- (g) Length of Appointment. Terms for all members shall be for three (3) years. The terms will begin on January 1st and expire December 31st, except for the ex-officio from the Town Council who will serve concurrent with his/her term of office.
- (h) Terms of Office. Board Members may serve for no more than two consecutive terms. Board Members may be appointed to the Board once a single year has passed since last serving on the Board. Board Members appointed to fill a vacancy may serve two consecutive terms after the expiration of their term. Terms will run on a calendar year.
- (i) Vacancies. Whenever a vacancy occurs by resignation, death or otherwise, this vacancy shall be filled in June of each year by the Town Council, following the procedures in the Appointment to Advisory Boards Procedures policy. The appointee shall serve for the duration of the unexpired term.
- (j) Removal of Members. Any member of the Board may be removed with or without cause, at any time, through a request from the Board to the Town Council or directly by the Town Council.
- (k) Resignation. The resignation of Board Members must be provided in writing to the Clerk's Office.
- (l) Changes to By-Laws. With majority vote of the membership, proposed changes to the By-Laws shall be submitted to the Town Council for review and approval. Changes to the By-Laws do not take effect until final approval is granted by Town Council.
- (m) Conduct. Members of appointed boards shall, at all times during the course of their board membership, conduct themselves in a professional and ethical manner. Board members shall be respectful to other board members, public officials, and members of the public. They further shall abide by any rules of procedures or other guidelines for the conduct of their boards. Board members shall not use their official positions for personal gain.
- (n) Conflict of Interest. A Board Member must publicly disclose any potential conflict of interest and shall not participate in deliberation or vote on any item where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the Board Member.

ARTICLE III

APPOINTMENT OF CHAIR AND VICE-CHAIR

- (a) Officers. The appointment of a Board Chair and Vice-Chair, for the ensuing year, shall take place at the pleasure of the Board such that they are named at the March meeting

each year. The mention of new officers shall be on the January agenda of each year; no action will be taken at this meeting. The Chair and Vice-Chair shall be appointed upon majority vote of the Board. Nominations may be made by any Board member. Officers shall serve a one-year appointment with eligibility for reappointment. In the event an officer's appointment to the Board is terminated, a replacement to this office shall be appointed by the Board at the next meeting.

ARTICLE IV

DUTIES

- (a) Chair. The Chair shall preside at meetings and shall retain full voting rights. The Chair may call a special meeting with a minimum of forty-eight hours written notice to the Board. It shall be the duty of the Chair to provide information for the meeting agendas to the Clerk to the Board, or designee.
- (b) Vice-Chair. The Vice-Chair will serve in the absence of the Chair with all the same authority/rights of the Chair. Should the Chair resign or otherwise become unable to fulfill the duties of office during an elected term, the Vice-Chair shall assume the post.
- (c) Clerk to the Board. It shall be the duty of the Clerk to the Board, or designee, to record the minutes of each meeting. In accordance with G.S. § 143-318.10(e), the Board shall keep full and accurate minutes of all official meetings. The Clerk to the Board shall maintain the attendance record, including attendance at regular meetings, work sessions and special called meetings. The minutes shall reflect the vote of each member upon each question, or if absent or failing to vote, an indication of such fact; and final disposition of appeals shall be by recorded resolution, indicating the reasons of the Board, all of which shall be a public record.

ARTICLE V

MEETINGS

- (a) Meetings. Regular meetings shall be held by the Board on a date and time based on a calendar adopted annually by the Board and filed with the Town Clerk. This calendar shall be created by the Clerk to the Board or designee. This calendar shall be on the November agenda and voted on by a majority of the Board. In the event no business is pending and no agenda is developed, a meeting may be canceled. In accordance with NC GS 143-318.10, these are official meetings and are open to the public.
- (b) Business of the Board. Business of the Board shall take place in the course of an official meeting. An official meeting shall only take place in the presence of a quorum at regular scheduled or properly called special meetings.
- (c) Special Meetings. Special meetings may be called by the Board Chair or upon written request from a majority of the Board.

- (d) Quorum. A quorum shall consist of a simple majority of the total membership of the Board. A quorum of the Board shall be in attendance before action of an official nature can be taken.
- (e) Order of Business. The order of business, unless otherwise noted by the Board Chair, or designee, shall include:
1. Call To Order
 2. Adjustment to the Agenda
 3. Approval of Minutes
 4. Public Hearings
 5. Old Business
 6. New Business
 7. Adjournment

ARTICLE VI

ATTENDANCE

- (a) Absences. All Board Members are expected to attend scheduled meetings for the prompt and efficient transaction of business. An appointed Board Member who misses more than (3) unexcused consecutive regular meetings, or a total of four (4) such meetings during the year, loses his status as a member of the Board. Absences due to sickness, death, or other emergencies of like nature shall be regarded as approved absences and shall not affect the member's status on the Board, except that in the event of a long illness or other such prolonged absence, the member may be replaced. After a Board Member misses more than four unexcused meetings, the Clerk's Office will send a letter of termination to the Board Member and will notify the Town Council Liaison, Planning Director, Clerk to the Board and Board Chair.
- (b) Attendance Record. The Clerk to Board, or designee, shall maintain the attendance record, including attendance at regular meetings, work sessions, and special called meetings.

ARTICLE VII

COMMITTEES

- (a) Establishment of Special Committees. Committees will be established by majority vote of the Board as needed to best conduct the business of the Board. The Board Chair will appoint committee members, and members of the committee may contain persons not serving on the Board. Each committee Chair shall be appointed by the Board Chair. Committees may be established as needed.

BOA By-Laws, Resolution #2023-96 passed 12/4/2023;
Resolution #2024-01 passed 1/2/2024