

Appeals Revisions

Suggested changes to certain appeals processes.

Current Appeals

- The current process for appealing land use decisions is not in one concise location in our ordinance, and the processes are not uniform.
- Ordinances on appeals are currently spread out between Sections: 153.125; 154.099; 154.158; 154.178; 154.179; 154.181.
- Many appeals processes are not spelled out in sufficient detail
- Many are also incongruent with suggested processes via NC State Law

How to Simplify

- Take all ordinances that outline appeals processes and place them within one section. (Specifically Section 153.998 for Subdivisions and 154.998 for Zoning.)
- Bring appeals processes into congruence with NC State Law suggestions
- Add greater detail where lacking in current ordinance

Why to Simplify

- Help to protect Town from unnecessary litigation
- Ensures stronger, more concise appeals process
- Supplies potential appellants and property owners with adequate and concise information on what is expected of them.
- Helps staff to find pertinent information within Ordinance more easily.

Final Product (Example)

- 153.998 APPEALS

- A. **Major Subdivisions**

- 1. **Authority.** Appeals of decisions made regarding Major Subdivisions will be heard by etc.
 - 2. **Process.**
 - a. Appeals must be submitted in writing within 30 days of etc.
 - b. Appeals applications will be reviewed by staff to ensure the application is complete. Any application deemed to be complete etc. A complete application shall consist of the following:
 - i. A completed and signed application
 - ii. A complete account of the grounds of the appeal, etc.

- B. **Minor Subdivisions**

- Etc.

- C. **Family Subdivisions**

- Etc.

- D. **Exempt Subdivisions**

- Etc.

Final Product (Example)

- 154.998 APPEALS

- A. **Conditional Uses**

- 1. **Authority.** Appeals of decisions made regarding Conditional Use Permits will be heard by etc.
 - 2. **Process.**
 - a. Appeals must be submitted in writing within 30 days of etc.
 - b. Appeals applications will be reviewed by staff to ensure the application is complete. Any application deemed to be complete etc. A complete application shall consist of the following:
 - i. A completed and signed application
 - ii. A complete account of the grounds of the appeal, etc.

- B. **Special Uses**

- Etc.

- C. **Rezoning**

- Etc.

- D. **Decisions of the Zoning Administrator**

- Etc.

**Establishing the General Rules of Procedure
For Mills River Committees and Boards**

A. Purpose: The purpose of this is to provide standard operating procedures to be used by all Mills River Committees and Boards including administrative operating procedures for the Planning Board and Zoning Board of Adjustment, which are governed by statutory rules and regulations contained in North Carolina state law.

B. Term of Office/Qualifications:

1.) It is the intent of Town Council to ensure the widest variety of citizens participate in government by appointing members who represent the diversity of the community. Mills River does not discriminate on the basis of gender, ethnic, or socio-economic background. The following rules apply:

- i. Members of all Committees/Boards serve at the pleasure of Town Council and may be removed, or may not be re-appointed at the Governing Board's discretion.
- ii. If a member is appointed to fill a seat from someone who has resigned, then that person may sit for the remaining period of the vacated seat.

2.) The number of members shall be established by Town Council.

3.) Criteria for membership shall be established by Town Council.

C. Duties and Responsibilities: Each Committee/Board will have specific duties and responsibilities established by Town Council. Committees/Boards established by Town Council:

1.) **Planning Board:** Advises Town Council on long range planning and current planning projects and policy.

2.) **Parks and Recreation Advisory Committee:** Advises Town Council on parks and recreation projects, facilities, special events, and policy.

3.) **Finance Committee:** Advises Town Council on annual budget planning, financial borrowing, statements, and investments.

4.) **Agricultural Advisory Committee:** Advises Town Council on town agriculture leases, and on policy issues that are sensitive to the local agriculture community.

5.) **Zoning Board of Adjustment:** Board is responsible for hearing variance requests, conditional use permit requests, and appeals of the decision of the Zoning/Subdivision Administrator.

D. Organization, Rules, Records, and Meetings:

A Committee/Board Organizational Meeting shall be held annually to elect officers. Each officer is elected to serve a one-year term which is renewable at the next annual election. In the event that an officer cannot serve due to resignation or other reason, the Committee/Board shall elect an officer to fill the position until the next organizational meeting.

1.) **Public Records Law:** All Agendas, Agenda item backup documents, minutes or any document generated for or by the Committee/Board is public record in accordance with N.C.G.S. Chapter 132.

- 2.) **Minutes:** Minutes shall be taken in accordance with the Public Records Law, N.C.G.S. Chapter 132. Staff Liaison to the Committee/Board shall keep copies of all minutes on file as an historic record, or file them with the Town Clerk.
- 3.) **Notice of Meeting:** The Committee/Board will establish a monthly meeting date, time and location and will make every effort not to deviate from this schedule. Special meetings shall be utilized as little as possible. Notice of any special meeting or deviation from the meeting schedule shall be forwarded to the Town Clerk and Town Manager as soon as possible.
- 4.) **Conduct of the meeting:** The Committee/Board will make every effort to conduct its business in a professional and timely manner ensuring that all representatives have the opportunity to contribute to the meeting.
- 5.) **Public Meetings Law:** All meetings shall be conducted in accordance with the Public Meetings Law, N.C.G.S. 143-33C; and, shall have a citizen comment period at the beginning of the each meeting consisting of a period limited to three minutes from each speaker, or ten minutes per group representative as established by Town Council on December 18, 2003.
- 6.) **Quorum:** Every effort will be made by all Committee/Board members to attend all meetings. Each Committee/Board is responsible for adopting an attendance policy. Teleconferencing is allowed as long as the member not in attendance can hear and participate in the discussion. The minutes should reflect that they participated by teleconference, and should attend for the entire meeting.
- 7.) **Additional Rules of Procedure:** Each Committee/Board may adopt additional Rules of Procedure specific to aid in them completing their purpose. After adoption, these Rules shall be filed in the Office of the Town Clerk.

E. Staff and Technical Services: The Town Manager will assign a Staff member as a liaison to work with the Committee/Board. Additional requests for resources in time or materials shall be requested through the Town Manager.

F. Ethics and Conflicts of Interest: Each Committee/Board member is expected to act in a manner to maintain their integrity and independence, yet be responsive to the interests and needs of the Town, Town Council and Staff.

Committee/Board members shall:

- 1.) Understand their role as an advisory committee/board and respect the decisions made by Town Council and Staff.
- 2.) Have legitimate interests of a private nature. Members shall not be denied, nor should they deny other members or citizens the opportunity to acquire, retain, and pursue private interests, economic or otherwise, except when conflicts with their responsibility to the public cannot be avoided. Members must exercise their best judgment to determine when this is the case.
3. Will understand the actions of their Committee/Board may interfere with, or be counter to, the actions of another Committee/Board of the Town Council. When this occurs, it is incumbent upon the members to properly discuss the issues arising from such conflict and be willing to accept the decisions made by other Committees/Boards, Staff, and Town Council as acting in the best interest of the citizens of Mills River.
- 4.) Have a Fiduciary Duty to the Town and Committee/Board, not their own or other private interests. Any possible fiduciary conflicts shall be disclosed to the Committee/Board and the Town Council.

**TOWN OF MILLS RIVER
PLANNING BOARD
PROCEDURES**

Section 1 – Order of Business

- A. The order of business at regular meetings shall be, where pertinent:
 - 1. Invocation
 - 2. Approval of the minutes of the previous meeting(s)
 - 3. Discussion/adjustment of Agenda
 - 4. Public Comment
 - 5. Sub-committee and project status reports
 - 6. Old business
 - 7. New business
 - 8. Important Dates
 - 9. Adjournment

- B. The order of business at special meetings shall be”
 - 1. Invocation
 - 2. Business as announced in meeting notice
 - 3. Adjournment

Section 2 – Public Input

- A. Prior to the beginning of each regular meeting a sign-up sheet shall be placed in a conspicuous location. The sheet shall state the name of the speaker and the subject which the speaker wishes to address. The sheet shall be brought to the chairman at the time the meeting is called to order.
- B. The chairman shall recognize those who have signed up to speak during the public comment section of the meeting.
- C. The board shall, in the interest of time, have the right to limit any speaker who has signed up under “public comment” to less than five (5) minutes.
- D. Any citizen arriving after the meeting begins, may request to speak during the public comment time by contacting the secretary.

Section 3 – Scheduled Agenda Items

To have an item placed on the Planning Board agenda as new business, it must be one of the following:

- A. A result of an application under provisions of the Zoning Ordinance.
- B. A planning related issue of local significance which has been deemed appropriate for discussion and consideration either by the chairman or a majority of the planning board. Requests for such placement on the agenda must be made in writing to either

- the chairman or zoning administrator or his designee no less than 15 days prior to the date of the scheduled meeting date at which the item is to be heard.
- C. An administrative matter affecting the planning board.

Section 4 – Hearings

- A. In addition to hearings required by law, the planning board may, at its discretion, hold public hearings when it determines that such meetings will be in the public interest.
- B. Notice of the time and place of such hearings shall be published in a newspaper of general circulation in the county once a week for two (2) successive calendar weeks. The notice shall be published the first time not less than 15 nor more than 25 days before the date of the hearing.
- C. The matter before the board shall be presented in summary by the chairman or a designated member of the planning board or staff and the parties in interest shall have privileges of the floor.
- D. A record shall be kept of those speaking before the board.

Section 5 – Amendments

These rules of procedure may only be amended by a majority vote of the entire membership of the Town of Mills River Planning Board.

Section 6 – Recommendations to Town Council

Each time a recommendation is made by the Planning Board to the Town Council, pursuant to proper procedures, a minority report may be submitted to the Town Council with that recommendation.

Section 7 – Reference to Robert’s Rules of Order

To the extent not provided for in these Rules of Procedure and to the extent that the reference does not conflict with the spirit of these Rules of Procedure, the Planning Board shall refer to Robert’s Rules of Order for unresolved procedural questions.

Section 8 – Quorum

A seat on any Governing Board appointed Committee or Board, with the exception of the Board of Adjustment, without a current appointment shall not count towards the total seats determining a quorum.

Section 9 – Inclement Weather

As adopted by Council on February 27, 2014:

“Out of respect for our volunteers, and concern for their safety, all Committee or Board meetings for the Town of Mills River are cancelled on any day Henderson County Public Schools cancels classes at any time during the day of the meeting due to inclement weather.”

Section 10 – Adoption

These Rules of Procedure were unanimously adopted by the Town of Mills River Planning Board on April 6, 2004 and recorded in the minutes of that meeting.

Amended April 1, 2014.

Chairman,
Town of Mills River Planning Board