



TOWN OF BLACK MOUNTAIN

160 Midland Avenue ♦ Black Mountain ♦ N.C. ♦ 28711

Phone: (828) 419-9300 ♦ Fax: (828) 669-2030

MEMORANDUM

To: Town of Black Mountain Zoning Board of Adjustment
From: Jennifer Tipton, Zoning Administrator
Re: Agenda Packet for January 16, 2020
Date: January 10, 2020

The **Town of Black Mountain Planning Board** will meet on **Thursday, January 16, 2020, at 6:00 p.m.** in Town Hall at 160 Midland Avenue.

Please find the following items for your information and use at the meeting:

1. The proposed agenda;
2. Draft minutes from December 19, 2019; and
3. Review of Boards and Commissions Handbook.

Please let Jennifer Tipton know if you are **unable** to attend this meeting.
jennifer.tipton@townofblackmountain.org or (828) 419-9373.

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the American with Disabilities Act. Should you need assistance or a particular accommodation for this meeting, please inform Jennifer Tipton at (828) 419-9373 or by email at jennifer.tipton@townofblackmountain.org.

CC: Jessica Trotman, Planning Director
Ron Sneed, Town Attorney
Josh Harrold, Town Manager



PUBLIC NOTICE

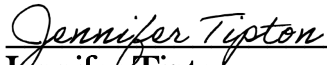
BLACK MOUNTAIN ZONING BOARD OF ADJUSTMENT

REGULAR MEETING

Thursday, January 16, 2020, at 6:00 p.m.

The Black Mountain Zoning Board of Adjustment will meet for their regular monthly meeting on **Thursday, January 16, 2020, at 6:00 p.m.** at Town Hall, 160 Midland Avenue, Black Mountain, N.C. The purpose of this meeting is to review the new Boards and Commissions Handbook.

The meeting is open to the public.



Jennifer Tipton
Zoning Administrator

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Jennifer Tipton, Zoning Administrator at (828) 669-2030 or by email at Jennifer.tipton@townofblackmountain.org

Posted to the Town Bulletin Board 01/07/2020

www.townofblackmountain.org



**Zoning Board of Adjustment Regular Meeting
January 16, 2020**

PROPOSED AGENDA

- I. CALL TO ORDER**
 - Welcome
 - Determination of Quorum
- II. ADOPTION OF AGENDA**
 - **Motion:** To adopt the agenda as presented [or as amended]
- III. ADOPTION OF MINUTES**
 - **Motion:** To adopt the minutes of December 19, 2019 as written [or as amended]
- IV. OLD BUSINESS**
- V. NEW BUSINESS**
 - Review of new Boards and Commissions Handbook
- VI. COMMUNICATION FROM ZONING BOARD OF ADJUSTMENT**
- VII. COMMUNICATION FROM STAFF**
- VIII. ADJOURNMENT**

**TOWN OF BLACK MOUNTAIN
ZONING BOARD OF ADJUSTMENT**

The Black Mountain Zoning Board of Adjustment held its regular meeting on Thursday, December 19, 2019, at 6:00 p.m. in Town Hall at 160 Midland Avenue, Black Mountain, North Carolina.

I. CALL TO ORDER

The meeting was called to order with the following members present:

Cheryl Milton, Chair
Rebecca Harris, Secretary
Ted Mattson
Janet McKimpson, Alternate
Greg Feightner, Alternate

Absent:

John DeWitt, Vice Chair
Bob Osmundsen
Charlotte McRanie, Alternated

Staff:

Jennifer Tipton, Zoning Administrator
Ron Sneed, Town Attorney

The meeting was called to order at 6:01 p.m. and duly constituted and opened for business with a quorum of three (3) regular members and two (2) alternates.

II. ADOPTION OF AGENDA

Greg Feightner made a motion to remove the review of the boards and commissions' handbook until all members could be present. The motion was seconded by Ted Mattson and passed by a vote of 5-0. Rebecca Harris made a motion to adopt the agenda as amended. The motion was seconded by Janet McKimpson and passed by a vote of 5-0.

III. ADOPTION OF MINUTES

Janet McKimpson made a motion to adopt the minutes of September 19, 2019 as written. The motion was seconded by Ted Mattson and passed by a vote of 5-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Variance Request for 48 Sisters View Drive

Jennifer Tipton summarized the staff report for the variance request for 48 Sisters View Drive. The request is to reduce the rear setback from thirty feet to twenty feet because of the steepness of the slope.

Houston Hammond, 22 Weston Heights Drive, first introduced into evidence a site plan marked with the desired placement. Mr. Hammond said that they need twenty-two feet but the twenty feet would give a small buffer. The variance would allow the house to sit on a less sloped portion of the lot. The adjacent neighbor is a Duke Energy Progress power line. The variance would

Zoning Board of Adjustment Regular Meeting
December 19, 2019

allow the foundation to not be visible from the road and as a larger foundation would affect the height. The design of the house does take into account the steep slope regulations.

Thomas McClain, 227 Fairway Falls, said that in talking with the Design Review Board (DRB) of the Settings, they explained that the original rear setback was twenty feet and is shown as that in their documents but the Town had changed it to thirty feet. The house will still be forty-five feet from the power lines. There was no pushback from the DRB and they approved of the asking of the variance.

Ms. Tipton presented the following evidence:

Exhibit A: Staff Report (3 pages)

Exhibit B: Application for Variance (2 pages)

Exhibit C: Receipt of Payment

Exhibit D: Buffer Map

Exhibit E: List of Property Owners

Exhibit F: Notice of Variance Request

Exhibit G: Certificate of Mailing

Exhibit H: 2015 Aerial Map

Exhibit I: Picture of Property Posting

The applicant presented the following evidence:

Exhibit A: Site Plan

The board made the following findings of fact:

1. The slope of the western portion of the lot creates an unnecessary hardship if the land use regulations and specific requirements of the zoning district are strictly applied, because of the increased cost and danger of construction on that steeper portion of the lot if a house is constructed that does not encroach into the rear setback lines.
2. The hardship results from conditions that are peculiar to the property because of the extreme slope of a portion of the lot.
3. The hardship did not result in actions taken by the applicant or the property owner, as the slope is a characteristic of the lot the owner had no control over, and the rear setback requirement was imposed after the lot was created by the subdivision of the property known as the Settings into lots which were designed with allowance made for a twenty foot rear setback, and not the thirty foot setback as required by current zoning.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance such that public safety is secured and substantial justice is achieved, as a variance will allow the owner to have the same use of his property as other property owners in the neighborhood, without causing closer proximity to other housing because the lot abuts a power line easement, and by allowing a home without an extremely high foundation.

Ted Mattson made a motion to grant the variance request to reduce the rear setback from thirty feet to twenty feet. The motion was seconded by Rebecca Harris and approved by a vote of 5-0.

VI. COMMUNICATION FROM ZBA

None.

VII. COMMUNICATION FROM STAFF

None.

VIII. ADJOURNMENT

Zoning Board of Adjustment Regular Meeting
December 19, 2019

Janet McKimpson made a motion to adjourn the meeting at 6:24 p.m. The motion was seconded by Greg Feightner and approved by a vote of 5-0.

Prepared by:

Cheryl Milton, Chair

Jennifer Tipton, Zoning Administrator

Rebecca Harris, Secretary



Handbook for Advisory Board, Commission & Committee Members

A Comprehensive Guide to the Town of Black Mountain's Boards, Commissions and Committees

Questions may be directed to:

Town Clerk
160 Midland Ave.
Black Mountain, NC 28711
Phone: 828-419-9310 • Fax: 828-669-4204
Email: townclerk@townofblackmountain.org
Website: www.townofblackmountain.org

Regular business hours:
Monday-Friday
8:00 a.m. to 5:00 p.m.

November 2019
(Web Version)

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Introduction

OVERVIEW

Thank you for your interest in serving your community through participation on a Town of Black Mountain board, commission or committee. The Town of Black Mountain currently has 7 active boards and commissions that are comprised of volunteers appointed by the Town Board of Aldermen (herein after referred to as Council) or Mayor. The Town of Black Mountain encourages participation by its residents in Town government through service on Town boards and commissions. Serving on a board is an opportunity to collaborate with local government and to help shape decisions and policies that impact our community.

Members of boards and commissions provide an invaluable service to our Town. Members advise Town Council on a wide variety of subjects by making recommendations on important policy matters. The mission, responsibilities and time commitments for each board vary. A complete description of each board, including meeting times and locations, can be found at the end of this handbook. The Town of Black Mountain Town Council is committed to appointing diverse, qualified and dedicated people to these boards to achieve board membership with people of all ages, interests and backgrounds.

This handbook is for persons interested in volunteering on a Town Council board or commission or recently appointed to a board or commission. In this handbook, you will find information on how the board process functions, qualifications for members, information for new appointees, board roles and responsibilities, all of Town Council policies governing boards and board members, and a description of all Town boards or other boards to which Town Council appoints members.

If you have questions or require assistance, contact the Office of the Town Clerk at 828-419-9310 or email townclerk@townofblackmountain.org.

Appointment Process

APPOINTMENTS TO BOARDS, COMMITTEES, & COMMISSIONS

The Black Mountain Mayor and Town Council have a long history of providing many opportunities for resident participation on local government boards, committees, and commissions. There are 7 standing boards and commissions to which the Mayor and Town Council make appointments.

The Mayor and the Town Council may, at times appoint residents to both ad hoc committees and standing committees. Ad hoc committees are temporary committees that have been given a very limited charge and are usually expected to provide recommendations to the Mayor and Town Council within one year. Standing committees have ongoing responsibilities and are usually either regulatory or advisory in nature. Regulatory committees are involved in setting policy or operating procedures for the related activity, e.g., the Zoning Board of Adjustment. Advisory committees are charged with reviewing and commenting on local plans and policies, e.g., the Planning Board. The Mayor and Town Council also appoint from its membership or residents to non-Town bodies such as the Metropolitan Sewerage District Board (MSD).

Appointments to boards, committees and commissions are made annually, or as needed. At least four weeks prior to the date for nominations, the Town Clerk's Office provides the Mayor and Town Council with the list of upcoming vacancies eligible for appointment. The vacancies are publicized by providing and posting a list of vacancies through the Town's website, social media and other opportunities.

Applicants seeking appointments to a specific board are strongly urged to attend several meetings of the board prior to completing and submitting an application.

An application is required for consideration of an appointment to a board or commission. All information provided in completing the application becomes public information and is therefore subject to public records requests. Once an application for an appointment has been filed with the Town Clerk, it is placed on file and remains active for one year.

All discussion and consideration of appointments are made in open sessions of the Town Council. After the announcement is made, each member of Town Council has the opportunity, at a specified meeting, to nominate one person for appointment to each of the positions to be filled. After nominations are closed, no further nominations may be made and then Town Council makes the appointments to fill the vacant positions by majority vote of the Council. Once an appointment takes place, the Town Clerk's Office will notify that candidate of their appointment.

Please visit the [Town of Black Mountain's Website](#) and select Boards & Commissions to view vacancies, upcoming openings and to apply online. Subscribe to receive notifications of new vacancies by clicking the



Notify Me®

icon at the bottom of the page.

Qualifications

QUALIFICATIONS FOR ADVISORY BOARD MEMBERS

1. Appointees to boards, committees, and commissions shall be domiciled in the Town of Black Mountain, unless otherwise specified or provided for by law, ordinance, or Town Council action establishing said board or commission, or in the rules or by-laws of said board or commission, if approved by Town Council.
2. No resident shall be eligible to hold concurrently more than one Mayoral or Town Council appointment to a standing board, committee, or commission. This limitation shall not apply to ad hoc committees or appointments to regional boards, committees, or commissions appointed by the Town Council.
3. Current Town employees shall not be eligible to serve on Town Boards or Commissions.
4. An oath of office (or affirmation) is required for some boards, committees, and commissions. Where applicable, newly appointed board members will take and sign an oath of office or affirmation following their appointment. A new member may not vote on any matter until the oath of office has been administered. Reappointed members shall also be administered the oath of office, if applicable.

The following boards require an oath of office:

- ABC Board
 - Historic Preservation Commission
 - Planning Board
 - Zoning Board of Adjustment
5. All appointees are subject to the Town Council's Code of Ethics and Attendance Policy for Members of Boards, Committees and Commissions. A Statement of Economic Interest Form may be required for members of some boards, committees, and commissions if the member holds a financial interest in a matter in which the member would otherwise cast a vote. Where applicable, appointed board members will complete the form at the direction of the Town Clerk and submit it within five business days to the Office of the Town Clerk.

The following Town boards and commissions may be subject to this requirement:

- (1) Land use and other regulatory bodies:
 - Zoning Board of Adjustment
 - ABC Board
 - Historic Preservation Commission
 - Planning Board
6. Appointees to Town Council boards, committees, and commissions shall receive a copy of this handbook and be asked to date and sign an acknowledgement of same.

New Members

NEW APPOINTEES TO BOARDS, COMMISSIONS & COMMITTEES

Thank you for volunteering to serve your community through an appointment by the Mayor and Town Council to an advisory board, committee, or commission. This handbook will acquaint you with the Mayor and Town Council's policies in regard to boards, committees, and commissions and the particular roles and responsibilities of members. This handbook is provided to new appointees by the Office of the Town Clerk along with their notice of appointment.

Boards, committees, and commissions are established to increase community input and participation in Town government. Some of the boards, committees and commissions exist to advise and make recommendations to Town Council, while others have distinct regulatory responsibilities that are established by law.

By accepting this appointment, you are now in a position to work directly with your local government, on behalf of your fellow residents, to enrich community life on a wide variety of issues. The greater your participation in the work of the board, the greater will be the effectiveness of the board in carrying out its charge and ultimately improving the community.

While the Mayor and Town Council set policy and make decisions affecting their constituency, they also consider community participation a vital aspect of good government. Working in partnership with the Mayor and Town Council, Town staff, and your community, we can continue to set the standards for excellence in good government and quality of life.

All board and commission meetings shall comply with the North Carolina Open Meetings Law, which requires that all meetings of "public bodies" be open to the public after proper notice is given. The open meetings law (G.S. 143-318.9 through 143-318.18) defines the term *public body* as any board, commission, committee, and so forth, in state or local government that (1) has at least two members and (2) exercises or is authorized to exercise any of these powers: legislative, policy-making, quasi-judicial, administrative, or advisory.

Unless otherwise specified, a quorum is a majority of the actual members of the board or commission. A quorum of the board or commission shall be required in order for any action to be taken.

COUNCIL POLICIES

Appointees are subject to the covenants of this Handbook as well as the Town Council's Code of Ethics and Attendance Policy. These policies are included in this handbook. In addition, members are subject to any other resolutions or ordinances establishing policies and procedures for boards.

New Members

These policies shall apply to every member of a board, commission, or committee that is part of the Town of Black Mountain regardless of who appoints the member. In addition, these policies shall apply to all appointees by the Town Council to a board, commission, or committee that is not part of the Town of Black Mountain.

RESIDENCY

A member of any board, commission or committee must be a resident of the Town of Black Mountain.

Exceptions to the above statement may exist for some boards for the purposes of regional membership or as NC General Statutes allow. Any exceptions will be handled on a case by case basis.

MULTIPLE TERMS / TERMS OF OFFICE

Excluding elected officials acting as Ex-officio capacity, an individual may not serve on more than one board, committee, or commission at one time.

Advisory board and commission members are appointed by and serve at the pleasure of the Board of Aldermen. Appointments for all advisory bodies are made for three-year terms of office. Terms on various boards and commissions are overlapping so as to avoid replacement of all members of any one board at a single time. All terms shall become effective on the date of the first meeting in the month following the date of appointment, except that all appointments to fill the balance of unexpired terms shall become effective upon the appointee having taken the oath of office.

The Board of Aldermen has expressed their preference to limit advisory board and commission members' terms of service to two consecutive terms; however, they have reserved the right to override that preference when they deem the circumstances of an individual's service to the community to be of such notable importance as to warrant a continuation of service. In those situations where the Board of Aldermen deems special circumstances to exist that warrant the continuation of community service by an individual on a board or commission, any member of the Board of Aldermen may place the name of that individual into nomination and state that they believe special circumstance warrant a continuation of service. The Board of Aldermen may then reappoint said individual by voting in no less than a 4/5 majority of the membership to reappoint the individual to another term of office. This process may be repeated as often as the Board of Aldermen deems the special circumstances to warrant an additional appointment.

A person who has served more than two-thirds of a full term after being appointed to complete the term of a previous board member shall be considered to have served a full term for the purposes of determining eligibility under the provisions of this section.

New Members

RESIGNATIONS, TERMINATIONS AND REPLACEMENTS

Any member of a board or commission who desires to resign shall do so in writing to the staff support and/or Office of the Town Clerk.

Members of boards may be removed from said body for failure to meet attendance requirements.

Unless otherwise provided by law, ordinance or resolution, all appointments by the Mayor and Town Council to a board, commission or committee serve at the pleasure of the appointing office, and may be removed at the discretion of said office with or without cause.

Terms expiring during any month shall be vacated by the person then holding the position until a successor is appointed.

It is the duty of the chairperson of each board or commission to be responsible for notifying the Mayor and Town Council when members of that board or commission have not met the guidelines for faithful attendance. In the event that a member of an advisory board fails to comply with the attendance policies contained herein, it shall be the responsibility of the chair of that advisory board to notify the Mayor and Town Council, in writing, of the policy violation and to request that said member be replaced. Staff may also initiate notification. Notification should be sent to the Town Clerk for dissemination to the Council.

REPORTS

Each board, commission and committee that is part of the Town or established by Town Council is required to submit annual written reports that must contain in depth review of the body's activities including goals, objectives, successes, problems, and/or the need for Council assistance. These reports shall be submitted to the Town Clerk according to the schedule established by the Town Clerk. The Clerk shall provide copies to the Mayor and Council and refer the reports to the appropriate staff as necessary.

Public Records Policy

PUBLIC RECORDS & YOU

All public boards receive and create public records while conducting regular business. You also produce public records when you function in your official Town capacity as a board member. For instance, if you communicate with another individual in your official Town capacity or exchange information about matters under your board's purview, you may create a public record even if you use your personal email, voicemail or video recording to transmit that information. Many people misunderstand the law and assume communications on personal email accounts or via text messages are not subject to the public records law; this is untrue. **All board-related communications are subject to public disclosure.**



Did you know? Your social media posts can be considered public records.

No Advisory Board, Commission, or Committee member is authorized to create or administer social media pages representing the Town or its advisory boards in any way.

WHAT IS A PUBLIC RECORD?

A public record is information created or received while transacting the public business by any agency of North Carolina government or its subdivisions, this includes public boards and commissions. North Carolina's public records law, enacted in 1935, is one of the most open public records laws in the United States. The law provides a very broad definition of what is a public record and stipulates that anyone can request a public record for any reason or without reason. It also affirms that public records and public information are property of the people. You can review the law in full here: [NC General Statute Chapter 132](#).

The purpose of making records public is to allow greater insight into government, provide accountability and transparency in the decision-making process, and ensure open access to the public. Examples of public records include meeting agendas or minutes, policies or directives, final drafts of reports or recommendations, work schedules and assignments, and correspondence related to official business. Not all information is considered a public record; for instance, personal messages to friends or family members and spam are excluded. In addition, there are records that are protected and not public; for instance, employee personnel file information and personal identifying information (social security numbers etc.)

Public records are designated by content and function, **it does not matter in which format it exists or what device was used to transmit the information.** Public records are papers, photographs, videos, maps, emails, voicemail messages, instant messages and text messages. Email and text messages are public records when created by officials and employees for the purpose of conducting official Town business. If the content of an email or other electronic communication meets the definition of a public record, it is subject to disclosure, whether it is in a public or private email account, social media account, or personal cell phone or device.

Public Records Policy

BOARD MEMBER RESPONSIBILITIES

Board members should be aware that your correspondence and exchange of information related to the work of the board may be subject to the [North Carolina public records law](#) and be released to the public upon request. This applies to your personal email accounts, social media accounts, and information transmitted on personal cell phones and other devices or forums, including text and voicemail messages.

Board members have a [legal responsibility for retaining information](#) pertaining to official Town business. Members should identify if information is created or received for official Town business and save emails and correspondence. If you must conduct business via text messaging, a good practice for retention is to forward the message to your email account or capture the text message with a screen shot and upload the image to your email account. Members must manage migrated records in their email account through their lifecycle.

Do not destroy your public records! The [law](#) requires that you retain certain records for a period of time, and that you turn over certain records if a member of the public requests them when they contain content related to your official Town capacity. This is true even if the records are on your personal computer, personal cellphone or personal email account. To review retention schedules of records, please refer to the Town of Black Mountain's [Records and Retention and Disposition Schedule](#).

PUBLIC RECORDS REQUESTS

Inspection of public records must be made available promptly. If records are requested from you from a Town staff member to fulfill a public records request, please make every effort to notify the Town Clerk and to make arrangements to provide the requested information in a timely manner. Failure to provide access to records in accordance with the law may subject the Town to lawsuits to compel production. Individuals can be held personally liable for attorneys' fees if found to have knowingly or intentionally committed, caused, permitted, suborned, or participated in a violation of the public records law. [Read more about public records and public records requests.](#)

If you have any questions or concerns, please contact the Town Clerk for assistance at townclerk@townofblackmountain.org

Roles and Responsibilities

ROLES AND RESPONSIBILITIES OF BOARD MEMBERS, CHAIRPERSONS AND STAFF ADVISORS

The roles and responsibilities listed below are general guidelines. It is important that dialogue take place between the members, chairpersons, and staff on how the specific board can function at its optimum. The members and chairperson of a board serve as advisors to the Mayor and Town Council and receive their charge from the Mayor and Town Council. The staff is an employee of the Town, usually with other job responsibilities, and is accountable to their Department Head and/or Town Manager. Responsibilities clearly defined by the chairperson and staff will make the board and its work more effective.

BOARD MEMBERS

Board members are an important part of the Town of Black Mountain government process. They are selected to be part of a board or commission that advises the Town Council on pertinent issues, policy-making, and project development and implementation. This can be accomplished in the following ways:

- ☐ It is important for every member to be aware of the time, energy, and commitment that is involved in being part of an advisory board.
- ☐ The majority of work of the advisory board is accomplished at the monthly meeting. Therefore, all members in attendance contribute to the most effective work plan.
- ☐ Individual members are encouraged to prepare materials that are substantive and meet required deadlines.
- ☐ Members may be asked by the chairperson to complete specific tasks which may include serving on subcommittees. Every member contributes to the problem-solving process.
- ☐ All members are required to vote on recommendations and actions of the group unless a potential conflict of interests exists.
- ☐ In order for the board to provide the most comprehensive information to the Mayor and Town Council, each member works in the spirit of compromise and negotiation in order to reach consensus when possible. Members are asked to keep up-to-date on information relating to board interest areas.
- ☐ A member must notify the chairperson and the staff support person if he / she cannot attend a meeting.
- ☐ Members shall not represent their individual views through any contacts they have with the media as being representative of the full board unless the board has formally taken a position on the matter.
- ☐ Members shall communicate through the Chairperson upon taking a position on any matter of significance.

Roles and Responsibilities

BOARD CHAIRPERSON

The board chairperson may be appointed by the Mayor, Town Council or the members of their respective board, in accordance with the guidelines and/or legislation establishing such board, and act as a link between the Mayor and Town Council, advisory board members, and the community. It is the duty of the chairperson of each board or commission to be responsible for notifying the Mayor and Board of Aldermen when members of that board or commission have not met the guidelines for faithful attendance.

The chairperson's responsibilities include the following:

- ☐ The chairperson advises the Mayor and Town Council upon request or in reference to the mission of the board and Town Council policy.
- ☐ The chairperson and staff conduct an orientation for new members to familiarize them with the work and operations of the board or commission, as well as the information contained in this handbook.
- ☐ In the event that a member of an advisory board fails to comply with the attendance policy or any policy contained herein the chairperson shall notify the Mayor and Board of Aldermen, in writing, of the policy violation and to request that said member to be replaced.
- ☐ The chairperson delegates assignments to members, recognizing skill, experience, and interest of individuals in the group; he/she makes sure all members get a chance to participate and uses subcommittees as much as possible to empower the group.
- ☐ The chairperson seeks the input of members on the work program and agenda formulation.
- ☐ The chairperson presides over the meetings and acts as facilitator to keep to the agenda.
- ☐ The chairperson makes sure all meetings are open to the public.
- ☐ The chairperson makes sure that resident input is reflected in the group's recommendations.
- ☐ The chairperson uses consensus-building techniques to find optimum recommendations.
- ☐ The chairperson, in conjunction with staff, prepares timetables for completion of projects.
- ☐ The chairman and members develop annual reports which are due to the Mayor and Town Council in accordance with adopted policy.
- ☐ The chairperson is encouraged to discuss the advisory board work with applicants seeking appointment to the board.

Roles and Responsibilities

- ☐ The chairperson may forward names as recommendations to fill individual vacancies for the Mayor and Town Council's consideration, attaching the relevant background information for each nominee.
- ☐ The chairperson may recommend certain skill sets necessary to fill individual vacancies that are a reflection of the needs of the board and community.
- ☐ The chairperson meets with the Mayor and Town Council concerning the work of the board, upon their request.
- ☐ The chairperson shall not represent their individual views through any contacts they have with the media as being representative of the full board unless the board has formally taken a position on the matter.
- ☐ The chairperson keeps the Mayor and Town Council apprised of all significant issues, either directly or through staff support.

BOARD STAFF ADVISORS

Staff provides important resources to boards. The resources and staff time available to boards varies. Boards report to the Mayor and Town Council and the staff report ultimately to the Town Manager, an arrangement that works most effectively when the chairperson and the staff have a clear understanding of what needs to be done and what resources are available to get the job done. The staff carries out his/her responsibilities in the following ways:

- ☐ The staff shall provide assistance to clarify the role of the board or commission, and with routine issues such as the time of meetings, quorums, etc.
- ☐ The staff works with the chairperson to prepare each agenda and necessary meeting materials.
- ☐ The staff notifies all members of upcoming meetings and new developments.
- ☐ The staff provides attendance reports and notifies the Town Clerk's Office of vacancies due to resignations, multiple absences, or other reasons.
- ☐ The staff gathers information, provides research and makes it available to the board or commission.
- ☐ The staff provides technical and professional expertise to the group.
- ☐ The staff prepares draft reports and correspondence and makes sure all Town presentations are prepared in the appropriate format.
- ☐ The staff keeps his/her supervisor and department head informed on the work of the advisory board.

Minutes

Under the open meetings law, “full and accurate” minutes must also be kept of the meetings of “public bodies” that are part of municipal government. Included are all Town Council committees, all other boards and committees of the town that perform either legislative, policy-making, quasi-judicial, administrative, or advisory functions, and all subcommittees of these other boards and committees. The Town Council establishes procedures to ensure that the minutes of these various boards are properly recorded and maintained.

Minutes of a town board, commission, or committee are the official written record of actions taken by the body. It is the responsibility of the chair, through either the secretary or the staff support, to keep a record of the proceedings of the board/commission. Minutes shall be kept in a permanent minute book and shall open to public inspection. The minutes provide future generations with the past history of the public body. They are used for many types of research and can be consulted for purposes of verification that certain actions were taken, when those actions were taken, and why. It is imperative that the minutes be a clear, concise, informative and accurate record of the proceedings of the meeting.

The minutes must be “full and accurate” (G.S. 160A-72; G.S. 143-318.10e) for they are the legal evidence of what the advisory board has said and done. “Full and accurate” does not generally mean, however, that a verbatim transcript of a meeting’s proceedings must be made. Including a detailed record of comments may well be counterproductive and the board or commission may find itself spending an excessive amount of time at its next meeting discussing the details of this record, which could have been omitted altogether. Rather, the minutes must record the results of each vote taken by the board or commission, and they should also show the existence of any condition that is required before a particular action may validly be taken. The full text of each motion should be recorded, including the full text of all ordinances and resolutions passed by the advisory board.

Minutes should include the following essential facts:

1. The name of the board/commission, date, time and place of the meeting.
2. The minutes should state that the meeting was legally convened.
3. Show that a quorum was present at all times during the meeting. The late arrival and the early departure of members (including whether someone leaving was excused by the remaining members) should be noted.
4. The names of the members present and absent.
5. The names of any person addressing the board/commission, a summary of subject matter presented and any action taken as a result of the person’s appearance before the board/commission.
6. A record of all motions. A motion must be recorded verbatim, along with the name of the person making the motion and the person seconding the motion (if applicable). The results of each vote must be recorded and upon the request of any member of the board/commission, votes for and against a motion shall be recorded.

7. A record of all ordinances and resolutions introduced (if applicable). Ordinances and resolutions must be recorded verbatim as adopted by the board/commission. Short resolutions and ordinances should be incorporated into the body of the minutes. Lengthy resolutions and ordinances may be attached as an addendum to the minutes.
8. The exact words of each amendment to any motion, order, ordinance or resolution.
9. A record of all subjects before the board/commission and actions taken.
10. Draft copies of advisory board minutes are generally sent by the secretary or the assigned staff support to members several days before the meeting at which they are to be considered for approval. The circulated draft minutes are a public record that must also be made available for public inspection. The minutes do not become the official record of the committee's action until it approves them. Once the minutes are approved any prior drafts should be destroyed as they no longer have administrative value and are unnecessary to retain.
11. The advisory board may correct minutes that it has already approved if it later finds that they are incorrect. In such a case the correction should be noted in the minutes of the meeting at which the correction is made, with an appropriate notation and cross-reference at the place in the minute book where the provision being corrected appears. Non-substantive corrections, such as those pertaining to grammar or spelling, may be corrected outside of the meeting by way of individual members contacting the secretary or staff support for their particular board or commission. Substantive corrections must be taken back before the body for a vote and amendment.
12. A statement that the meeting adjourned and at what time.
13. Minutes should be signed by the respective chair and secretary (or staff support), if applicable.
14. The secretary or staff support may ask for assistance from the Town Clerk in publishing the minutes.

The minutes should **not** include:

1. Any personal opinions or comments (unless meeting is a bona fide Public Hearing).
2. Irrelevant comments or discussion surrounding a topic under discussion or action being taken.

Order Of Business

- Call meeting to order
- Ascertain quorum present
- Discussion and revision of proposed agenda; adoption of agenda (optional for some boards/commissions)
- Approval of the minutes
- Old business
- New business
- Informal discussion
- Adjourn

Unless the Board or Commission deems a different "order of business" more appropriate for its work and sets it by policy, or by motion at the start of the meeting.

Code of Ethics & Attendance Policy

CODE OF EITHICS POLICY

Pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, the Board of Aldermen adopted a General Principles and Code of Ethics to guide Boards Members in their lawful decision-making. Each Board or Commission Member is required to sign acknowledge receipt of and abide by the Code of Ethics for Members of Boards and Commissions of the Town of Black Mountain. The purpose of this Code of Ethics & Attendance Policy is to establish guidelines for ethical standards of conduct for Advisory Board Members and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a member's best judgment.

Resolution # R-19-20

Code of Ethics and Attendance Policy for Members of Advisory Boards and Commissions of the Town of Black Mountain, North Carolina

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires local governing boards to adopt a code of ethics and, pursuant to Section 160A-86, the Black Mountain Board of Aldermen has previously adopted a Code of Ethics Resolution #R-10-17 on December 20, 2010 for the Mayor and Board of Aldermen, and subsequently adopted a Code of Ethics Policy for all advisory boards and commissions on ; and

WHEREAS, it is appropriate that members of Town boards, committees, and commissions, as well as Mayoral and Board of Aldermen appointees to non-Town bodies (hereinafter "Board Members"),also adhere to a Code of Ethics; and

NOW THEREFORE BE IT RESOLVED, by the Board of Aldermen of the Town of Black Mountain in recognition of our blessings and obligations as citizens of the State of North Carolina and as public officials representing the citizens of the Town of Black Mountain, and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we do hereby adopt the following General Principles and Code of Ethics & Attendance Policy to guide Advisory Board Members in their lawful decision-making.

GENERAL PRINCIPLES AND CODE OF ETHICS

The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for Board Members and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a member's best judgment. The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.

Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.

Board Members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.

Board Members must always remain aware that they may, at various times, play different roles:

- As advisors, who balance the public interest and private rights in considering and recommending, among other things, ordinances, policies, and decisions
- As decision-makers, who arrive at fair and impartial determinations.

Board Members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.

Board Members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of the Mayor and Board of Aldermen and the citizens of Black Mountain. Each Board Member must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

Section 1.

Board Members should obey all laws applicable to their official actions. Board Members should be guided by the spirit as well as the letter of the law in whatever they do.

At the same time, Board Members should feel free to assert policy positions and opinions without fear of reprisal from fellow Board members or citizens. However in doing so, Board Members:

- (a) shall be mindful that they were appointed by the Mayor or Board of Aldermen, or by another appointing authority to a Town Board, Committee, or Commission and, therefore, if they are advising or advocating a position that is contrary to a Council policy, that they notify the Mayor and Board of Aldermen of such as soon as practicable;
- (b) who serve in an advisory capacity shall be mindful that their chief responsibility is to advise the Mayor and Board of Aldermen or other decision-making body rather than to advocate to the public at large, particularly when the position of advocacy is contrary to a Council policy;
- (c) shall understand that they hold a position of trust on behalf of the Town and its citizens; and
- (d) shall assert policy positions and opinions on matters within or related to the jurisdiction and subject matter of the body on which they serve only through the transparency of official proceedings of the body or in a capacity and manner appropriate for a member of such body. Board Members shall not represent their individual views as being representative of the full body unless they have been formally authorized by the body to do so.
- (e) shall faithfully attend regular and special meetings of the body.

These guidelines are especially important to Chairpersons who must recognize that they are often viewed as speaking for the body.

To declare that a Board Member is behaving unethically because one disagrees with that official on a question of policy (and not because of the council member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

Section 2.

Board Members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values
- Exhibiting trustworthiness
- Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner

- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others
- For Board Members who act in a quasi-judicial capacity, disclosing contacts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves
- Treating other Board Members, Staff and the public with respect and honoring the opinions of others even when the board members disagree with those opinions
- Showing respect for their offices and not behaving in ways that reflect badly on those offices
- Recognizing that individual Board Members are not generally allowed to act on behalf of the body but may only do so if the body specifically authorizes it, and that the body must take official action as a body

Section 3.a

Board Members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach and they should not use their official position for personal gain. Although opinions may vary about what behavior is inappropriate, the Board of Aldermen will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the Board Member's action would conclude that the action was inappropriate.

Section 3.b.

If a Board Member believes that his or her actions, while legal and ethical, may be misunderstood, the official should seek the advice of the Town Attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the attorney).

Section 4.

Board Members should faithfully perform the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

Board Members should be willing to bear their fair share of the body's workload. To the extent appropriate, they should be willing to put the Town's interests ahead of their own.

Section 5.

Board Members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to them or Town employees.

In order to ensure strict compliance with the laws concerning openness, the Mayor and Board of Aldermen members have made it clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should take deliberate steps to make certain that any meetings held by the body are lawfully conducted and that such meetings do not stray from the purposes for which they are called.

Attendance Policy

Section 6.

Attendance Policy

Board Members should faithfully attend and prepare for meetings and adhere to the following attendance policy.

In order for a board or commission to be effective and efficient, and to accomplish its purpose, its membership must be actively involved and attentive to the business of the body, therefore, the Board of Aldermen may dismiss any member who misses THREE CONSECUTIVE REGULAR MEETINGS or one-half of the meetings held in a single six-month period without good cause (such as temporary severe illness of a member or of a member of such member's family, or overriding but temporary business concerns). Such dismissal may be considered upon or complaint by the board chairperson, a member of the board, staff, or on the Board of Aldermen's own motion. A member must attend fifty percent (50%) of a meeting in order to be considered in attendance for the purposes of this policy.

On January 1st of each year, a member of any board or commission appointed by the Mayor or Board of Aldermen may be automatically removed from said body for failure to attend at least one half of all regular and special meetings of the body held during the immediately preceding calendar year.

Sanctions

In the event that a member of an advisory board fails to comply with the code of ethics or attendance policy the chairperson or staff support shall notify the Mayor and Board of Aldermen, in writing, of the policy violation and to request that said member to be replaced. Following the review of an allegation against a member of a Town board or commission conducted pursuant to Section 2, the Town Board of Aldermen may sanction the member who was the subject of the review. Potential sanctions include removal of the member, adoption of a Resolution of Censure, and any other lawful sanction within the Board of Aldermen's power.

I move the adoption of the foregoing Resolution:

Maggie Tuttle, Vice Mayor

READ, APPROVED AND ADOPTED by a vote of 4-0 this 4th day of November, 2019.

Don Collins, Mayor

ATTEST:

Angela Reece, Assistant to Manger/Town Clerk

Josh Harrold, Town Manager

Policies for Administering Boards

Appointments to boards, committees, and commissions shall be made as necessary. Town Council may nominate one person for appointment to each of the positions to be filled by Council. After nominations are closed, no further nominations may be made. If a person receives at least one nomination, the appointment may be made upon a motion vote of Council at the same meeting at which the nomination is made.

At least four weeks prior to nominations, the Town shall publicize vacancies to be filled by appointment of the Council as follows: (i) the Town Clerk will provide the Council with a list of upcoming vacancies; and (ii) the Town Clerk shall provide such information to the public through the Town's website, social media and other opportunities. Any vacancies created by resignation or automatic removal shall be included with the next group of nominations.

By nominating a person who has not submitted an application for the subject board, committee, or commission, the nominating Council Member certifies that the person has indicated an interest in serving and that the nominee will submit an application with the Town Clerk's Office by noon the day before the appropriate Council agenda for appointment to be delivered to Council. If such application is not made, the nomination will be deemed to have been withdrawn. The Town Clerk's Office will notify the nominee of the actual deadline for submitting the application the day following the nomination.

OATHS OF OFFICE/ORIENTATION

For a board, committee, or commission requiring an oath of office, a new member may not vote on any matter until the oath of office has been administered. Reappointed members shall also be administered the oath of office.

Staff advisors shall conduct an orientation session for new members with the chair in attendance prior to or at the first regular meeting after appointment. Expectations shall be given concerning attendance, conflicts of interest, information on Town Government, etc.

RESIDENCY REQUIREMENTS

A member of any board, committee or commission must at all times be a resident of the Town of Black Mountain.

Exceptions to the above statement may exist for some boards for purposes of regional membership. Any exceptions will be handled on a case by case basis.

ATTENDANCE

Staff advisors shall file attendance reports with the Town Clerk pursuant to the schedule established by the Town Clerk. The Town Clerk shall send a letter to any member who is in danger of violation of the attendance requirement, asking them to be mindful of said requirement

On January 1st of each year, a member of any board or commission appointed by the Mayor or Board of Aldermen shall be automatically removed from said body for failure to attend at least 85% of all regular and special meetings of the body and assigned committees and subcommittees held during the

immediately preceding calendar year. The Town Clerk shall send a letter to anyone who is removed from a board, committee, or commission for failure to meet the attendance policy. Vacancies resulting from the removal of a member shall be filled by the same method as provided for initial appointments.

OATHS OF OFFICE/ORIENTATION

For a board, committee, or commission requiring an oath of office, a new member may not vote on any matter until the oath of office has been administered. Reappointed members shall also be administered the oath of office.

Staff advisors shall conduct an orientation session for new members with the chair in attendance prior to or at the first regular meeting after appointment. Expectations shall be given concerning attendance, conflicts of interest, information on Town Government, etc.

REPORTS OF BOARDS, COMMITTEES, AND COMMISSIONS

The Town Council finds it appropriate to periodically review each standing board, committee, and commission to which they make appointments for the purpose of assessing whether said board, committee, or commission should be renewed, dismantled, expanded or its charge redefined. To this end, each board, committee, and commission that is part of the Town, or that was established by the Town Council, whether acting alone or in conjunction with one or more other local governments, is required to submit annual written reports that must contain in depth reviews of the body's activities including goals, objectives, successes, problems, and/or the need for Town Council assistance. These reports shall be submitted to the Town Clerk and will be staggered through the year according to a schedule established by the Town Clerk. The Town Clerk shall then provide the Mayor and Town Council with copies of the reports and refer the reports to the appropriate Council Committee for the Committee's information.

Boards, committees, and commissions that are not part of the Town shall submit reports in accordance with the reporting requirements set forth in their contract, if any, with the Town or on a schedule established by the Town Clerk.

In addition to required written reports, the Town Council may request on a case-by-case basis that an oral report be made to the Council.

REPEALER

All prior resolutions of the Town Council establishing procedures for the public notification, nomination, and appointment of persons to boards, committees, and commissions, and setting forth the Town's policies for consecutive terms, oaths of office, residency, attendance, and review reports are, except to the extent that they are supplementary to and consistent herewith, are hereby repealed.

Descriptions of Boards & Commissions

Land use and other regulatory bodies:

ABC Board

3 Member Board each serving a 3- year term.

Meetings will be held on the 3rd Thursday, 3:00 p.m. at the ABC Store.

- The ABC Board is responsible for the general oversight of the Town operated ABC store.
- Members must live within corporate limits of Black Mountain.
- Board of Aldermen will appoint the Chair.

Historic Preservation Commission

5 Member Commission each serving a 3-year term.

Meetings will be held on 3rd Wednesday, 6:00 p.m. at Town Hall.

- The Historic Preservation Commission's purpose is to designate historic districts and landmarks within the Town of Black Mountain. In addition, this commission shall develop and recommend to the Board of Aldermen rules and regulations governing the designation and maintenance of historic properties in the Town.
- Members must live within the territorial jurisdiction of the municipality. Commission shall adopt rules of procedure governing its meetings and the conduct of official business and bylaws governing the election of officers and related matters.
- Commission will elect Chair and Vice Chair and may appoint sub-committees.

Planning Board

7 Member Board each serving a 3-year term.

Meetings will be held on the 4th Monday, 6:00 p.m. at Town Hall.

- The Planning Board is established to advise the Board of Aldermen on matters related to land use and community development. The Board shall be governed by the terms of GS§§ 160A-360 through 160A-387 and by the terms of the Town Zoning Ordinance enacted December 1982 and Subdivision Regulations enacted September 1985, and any subsequent amendments thereto. All Board members shall thoroughly familiarize themselves with the provisions of these statutes and ordinances.
- Members must reside within the corporate limits of the Town of Black Mountain.
- The Planning Board will appoint the Chair and may appoint sub-committees.

Zoning Board of Adjustment

5 Members (each serving a 3-year term)/3 Alternates (without expiring term). Any vacancy in the membership shall be filled by the first alternate member, who shall serve the remainder of the unexpired term. The Board of Aldermen would only, and always, be appointing new members to the Board into the third alternate position.

Meetings will be held on the 3rd Thursday, 6:00 p.m. at Town Hall.

- The Zoning Board of Adjustment (ZBA) is established as a "quasi-judicial" administrative Board that operates on a level between the enforcement officials of the Town and the courts. The purpose of the ZBA is to hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcement of an ordinance adopted pursuant to the land use regulations adopted by the Town. In addition, under the provisions of the Town's zoning regulations, the ZBA is responsible for the issuance of Conditional Use Permits.
- Members must be full-time residents within the corporate limits of Black Mountain.
- The ZBA Board will appoint the Chair and may appoint sub-committees.

Descriptions of Boards & Commissions

Non-transit and other advisory bodies:

Greenways Commission

7 Member Commission each serving a 3-year term.

Meetings will be held on 3rd Tuesday, 7:00 p.m. at the Carver Center.

- The Greenways Commission exists to advise the Board of Aldermen about greenways development and management, to work with staff to develop the greenways system, and to actively promote public education and awareness of the benefits of greenways.
- Members must be full-time residents of the East Buncombe Fire District (recognizing that the Black Mountain Greenways Commission may choose to promote construction of a regional network that expands beyond the limits of the Town.)
- Commission will elect Chair and Vice Chair and may appoint sub-committees.

Recreation Commission

5 Member Commission each serving a 3-year term.

Meetings will be held on the 4th Thursday, 5:30 p.m. at 304 Black Mtn. Ave.

- The Recreation Commission advises the Board of Aldermen on matters related to public recreation opportunities as provided by the Town of Black Mountain.
- A minimum of three-fifths of the membership shall be made up of full-time residents within the corporate limits of Black Mountain. The remaining two-fifths of the membership may be made up of residents who reside in the East Buncombe Fire District but not within the corporate limits of any incorporated municipality.
- The Commission will appoint the Chair and may appoint sub-committees.

Urban Forestry Commission

5 Member Commission each serving a 3-year term.

Meetings held on the 1st Tuesday, 5:30 p.m. at 304 Black Mtn. Ave.

- The Urban Forestry Commission assists in the administration of the Town of Black Mountain tree ordinance as it pertains to advice on the regulation of tree planting, maintenance, and removal on publicly owned and maintained property within the Town.
- A minimum of three-fifths of the membership shall be made up of full-time residents within the corporate limits of Black Mountain. The remaining two-fifths may be residents who do not reside within the corporate limits but who do reside in the East Buncombe Fire District, but not within the corporate limits of any other incorporated municipality.
- The Commission will appoint the Chair and Co-Chair and may appoint sub-committees.

ACKNOWLEDGEMENT OF RECEIPT OF HANDBOOK FOR MEMBERS SERVING ON ADVISORY BOARDS, COMMISSIONS, AND COMMITTEES

On the date written below, I received the “Handbook for Advisory Board, Commission, and Committee Members — A Comprehensive Guide to the Town of Black Mountain’s Boards and Commissions.” I acknowledge this handbook contains basic information related to serving as a volunteer on a board or commission as well as specific policies as shown below:

- Code of Ethics & Attendance Policy
- Policies and Procedures for Administering Boards and Commissions

I understand that I am responsible for reviewing the contents of this handbook and asking questions if I do not understand any part of it.

DATE: _

NAME: _

BOARD OR COMMISSION: _

SIGNATURE: _

A signed copy of this form will be maintained in the Office of the Town Clerk