



Ordinance 2023-09

An Ordinance to Amend the Davidson Planning Ordinance to Clarify the Required Time to Hold a Board of Adjustment Evidentiary Hearing

1. TEXT AMENDMENTS

TEXT CHANGES – PROPOSED AMENDMENTS

The following is a list of the proposed text changes to the Town of Davidson Planning Ordinance (DPO). The listed changes are being undertaken to create a set calendar date in which the Board of Adjustment (BOA) will meet regularly and hear cases, to clarify language around evidentiary materials and expedited hearings, and change the definition of “day” for consistency with state statute. Currently, staff must determine an evidentiary hearing date that falls within the 45-day period after receiving a completed application. Ideally, this would occur immediately following a Planning Board meeting. However, because applications can be submitted at any time, this has frequently caused staff to schedule separate BOA meetings to meet the timing requirement. Securing the requisite number of board members to satisfy quorum requirements has proven difficult because of this unpredictability in meeting scheduling. As a result, this has put an additional burden on staff to coordinate scheduling the meeting, as well as researching and preparing all materials for the case which must be distributed 10 days prior to the hearing.

The proposed text amendment will require the creation of a calendar of BOA meeting dates, similar to what many other municipalities utilize. BOA meetings will be set to occur every other month, immediately following regularly scheduled Planning Board meetings. In addition, it specifies that completed applications must be submitted in accordance with a filing calendar deadline in order to be heard at the desired hearing date.

The Rules of Procedure include deadlines for evidentiary materials and expedited hearings of appeals pursuant to NCGS 160D-405(f). The inclusion of these deadlines are being added to keep the Rules of Procedure and DPO language consistent and up to date with the latest NCGS amendments.

PROPOSED TEXT CHANGES				
PAGE	SECTION	TITLE	ISSUE	PROPOSED ACTION
SECTION 14 – ADMINISTRATION PROCEDURES				
14-56	14.21.5	APPEALS AND VARIANCES - DECISIONS	<p>This section requires the Board of Adjustment to hear a case on an application no later than 45 days after it is determined complete.</p>	<ul style="list-style-type: none"> Remove the 45-day requirement and replace with a calendar system that requires the applicant to submit by a pre-determined deadline in order to be heard at the designated hearing date. Add language for evidentiary material deadlines, expedited hearings, and update NCGS references.
<p style="font-size: 48px; opacity: 0.1; font-weight: normal;">DRAFT</p> <p>TEXT CHANGES</p>			<p>Revised Text:</p> <p>The Board of Adjustment shall hold a public hearing on an application no later than 45 days after a complete application has been filed with the Planning Director. The Board of Adjustment shall hold an evidentiary hearing on a complete application in accordance with NCGS 160D. Complete applications shall be submitted in accordance with the Town's filing calendar. A calendar indicating submittal dates shall be developed by the Town each year and shall be maintained and updated by the Town.</p> <p>The application shall be received by the Board of Adjustment at least ten days prior to the next regularly scheduled meeting of the Board to be considered at that meeting. The complete application and all evidentiary materials that parties intend to introduce to the BOA at the hearing must be delivered to the BOA ten calendar days prior to the hearing date to be considered at the hearing. If the applicant believes its appeal aligns with provisions in NCGS 160D-405(f), the applicant may file with the Town a request for an expedited hearing of the appeal, and the BOA shall meet to hear the appeal within 15 days after such a request is filed. The Board of Adjustment shall decide on that matter which was presented at the public hearing within 31 days of the close of the evidentiary hearing.</p>	

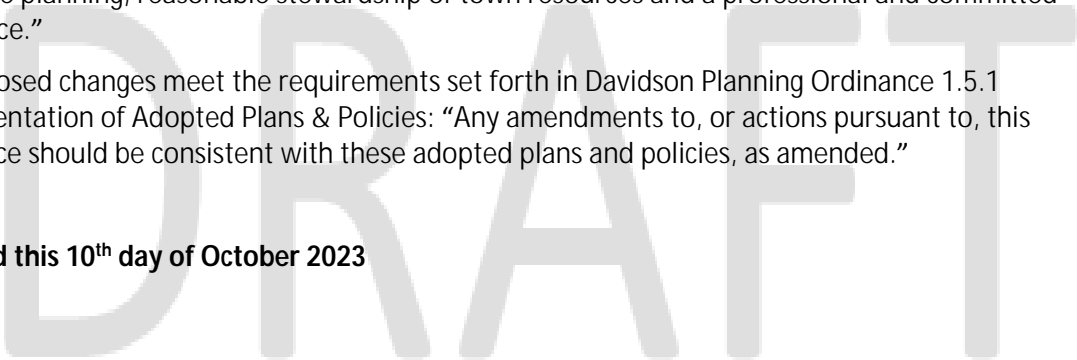
PROPOSED TEXT CHANGES				
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SECTION 14 – ADMINISTRATION PROCEDURES				
16-1	16.2.F	RULES OF CONSTRUCTION	This section defines “days” to be construed to be business days, excluding weekends and holidays.	<ul style="list-style-type: none"> • Change the definition of “days” to include weekends and holidays.
TEXT CHANGES			Revised Text: References to “days” will always be construed to be business days, excluding calendar days, including weekends and holidays, unless the context of the language clearly indicates otherwise.	

2. PUBLIC PLANS AND POLICIES

The proposed text changes are consistent with the Town’s Strategic Plan for Operational Excellence, which aims to “provide efficient and high-quality public services and facilities through thoughtful and proactive planning, reasonable stewardship of town resources and a professional and committed workforce.”

All proposed changes meet the requirements set forth in Davidson Planning Ordinance 1.5.1 Implementation of Adopted Plans & Policies: “Any amendments to, or actions pursuant to, this ordinance should be consistent with these adopted plans and policies, as amended.”

Adopted this 10th day of October 2023



Rusty Knox
Mayor

Attest:

Elizabeth K. Shores
Town Clerk