

Town of Blowing Rock

Planning Board

Agenda

Thursday, October 20th, 2022

5:30 p.m.

Call to Order

Approval of Agenda

Approval of Minutes

Business

1. Short-term Rental Discussion/Draft Ordinance Consideration
2. Downtown Development Standards

Other Business

Adjournment

DRAFT

Planning and Zoning Board

Minutes

Thursday, August 18th 2022

5:30 p.m.

The Blowing Rock Planning and Zoning Board met on Thursday, August 18th, 2022, for their regularly scheduled meeting. Members present were Chairman Bill McCarter, Tom Barrett, Catherine Perry, Sam Hess and Chris Squires. Staff members present were Director Kevin Rothrock, Zoning Officer Brian Johnson and Taylor Miller.

Chairman McCarter called the meeting to order at 5:30 p.m.

Chairman McCarter asked if there was a motion to approve the minutes from the last meeting. After corrections of previous minutes, Mr. Chris Squires made a motion to approve, seconded by Member Catherine Perry. All in favor.

1. Solar Panels

Mr. Rothrock presented the staff report. He noted that the Blowing Rock's town ordinance regulates solar panels on commercial buildings but there are no restrictions on residential buildings. The current ordinance also limits town staff from approving more than 20% of a roof for solar panels. If a permit request comes in for more than 20% of a roof, it must go before town council for approval. It can be approved for 100% of the roof by town council if they decide to approve that much.

The town invited a few different speakers to present to the Planning Board to help provide information in regard to solar panels and how they can impact our town. Speakers present were Landon Pennington, Adrienne Taite and George Santoucci.

The speakers presented some information about solar panels and the work that they do. All want to help the community transition to a cleaner version of living. A point was made that solar panels can be aesthetically pleasing for the town. Most people imagine these big, gaudy panels on top of the roof but we can come a very long way in the aesthetics of solar panels and how they can blend in with our environment without being an eyesore. Solar energy can also be cost effective while also being locally generated and supported.

The Town of Boone was discussed and how they plan to create renewable energy for the town. All of the Town of Boone facilities are operating at 100% clean – meaning they provide their own energy.

They discussed a platform used by the Town of Boone and how we can have access to the same platform. It is called Solsmart. This platform provides an online permit

application for anyone wanting to apply for a permit to install solar panels. It waives the permit application fee in order to entice people to want to apply. They have a 3 day turn around period for residential applications meaning that applicants will know in 3 days whether or not they have been approved or denied for their solar panel application. The platform also encourages towns to allow small scale solar panels in all zones of a town.

Mr. Rothrock asked Mr. Santoucci about setbacks for ground mounted structures and whether or not the Town of Boone still requires the same setback restrictions for any type of ground mounted panels on a property. Mr. Santoucci advised that they still enforce setback requirements.

Member Sam Hess questioned how often people ask to install only 20% of their roof with solar panels. Mr. Santoucci advised that it was rare for someone to want only 20% of their roof.

Member Chris Squires asked if there were any requirements or restrictions on installation of cheaper systems that could produce a heavy glare or reflection.

Mr. Santoucci acknowledged that they do not have any restrictions or requirements for that specifically.

Chairman McCarter stated that we could definitely fix our ordinance by removing the 20% limitation for solar panels on residential homes but if we want to encourage solar panel installation, it might take a bit more thought and consideration.

Mr. Rothrock asked the board if they wanted to make a decision now in regard to the current ordinance or provide him with some direction and let him draft something up for them.

All members seemed in agreement about keeping the current ordinance but striking the portion about staff only being able to approve only 20% of roof. They do not want the staff to be restricted to the only 20% approval.

Member Sam Hess made a motion to approve that decision for the ordinance, seconded by Member Chris Squires. All in favor.

Member Harrison Herbst made a motion to adjourn the meeting. All in favor.

Meeting adjourned at 6:30 p.m.

Chairman Bill McCarter

Taylor Miller
Planning & Zoning Support Specialist

MEMORANDUM

To: Blowing Rock Planning Board

From: Kevin Rothrock, Planning Director

Subject: Short-term rental permitting – draft ordinance

Date: October 10, 2022

A NC Court of Appeals case recently decided that the NC General Statutes prohibits communities from requiring permits or registrations for short-term rental uses. Involved in this case was the City of Wilmington, NC which had a permitting requirement to register short-term rentals in the city and also required a lottery for those property owners who wished to rent their property. The lottery process was to limit the number of short-term rentals by a distance requirement. Both of these processes were deemed invalid by the NC Court of Appeals.

In response, our Town Attorney recommends we cease registration for short-term rentals and remove that language from the Land Use Code. The ordinance will still require some of the provisions about smoke/carbon monoxide detectors and 911 address postings.

This draft ordinance went to Town Council in May but was tabled for some additional language and considerations. The draft ordinance was forwarded to Planning Board and then to a subcommittee. The subcommittee recommends the attached draft ordinance which requires a zoning permit when there is a change in use to a short-term rental and eliminates subsection (g) dealing with permit revocation. The Land Use Ordinance still has a Section dealing with permits revocation if it is needed.

Below and attached is a draft ordinance with proposed highlighted and deleted language. Also attached below is a “clean” version of the draft ordinance showing how the final version of the ordinance would read if approved as submitted.

Proposed/Highlighted draft ordinance:

Section 16-10.12. Short-Term Rentals. The Board finds that short-term rentals (STRs) are an appropriate use given the residential/resort character of Blowing Rock’s planning jurisdiction, provided that specific controls are in place to regulate parking, trash, noise, tenant safety, and other related effects thereby protecting neighborhood property values, and the health, safety, and the general welfare of Town citizens and visitors.

Short-term rentals are defined as the rental, lease, or offer to make available, any attached or detached residential dwelling unit, or portion thereof, by way of a rental agreement, lease,

license, or any other means, (whether oral or written) for compensation or consideration, for a duration that is less than 28 consecutive days. The following standards shall apply to all short-term rentals with the Town's planning jurisdiction:

- a) A zoning permit must be initially obtained for a change in use for each dwelling unit that is to be rented for a period of less than 28 days. ~~The zoning permit for short term rental must be renewed annually through the Planning and Inspections office by paying any required fee and requesting an inspection.~~ The permit is not valid until a satisfactory inspection is completed.
- b) A local contact person or management company contact information must be clearly posted on the interior of the dwelling unit, listed and the person/company shall be available to respond to complaints or emergencies within two (2) hours.
- c) Sufficient off-street parking must be provided for each bedroom to be rented. The parking space must meet the minimum dimensional requirements in Section 16-20.6. Short-term rental units that exist on July 1, 2018, are grandfathered with respect to parking, but each bedroom added after this date requires an additional parking space.
- d) Adequate trash and recycling containers must be provided. If collection containers are kept in an enclosure bin, the bin must meet minimum design standards defined in the Town Code (ex. Placed within 6 to 12 feet of the edge of the street, opaque screening at least four feet high, etc.).
- e) The dwelling unit must be equipped with operable smoke detectors and carbon monoxide detectors consistent with the NC Building Code.
- f) The 911 address must be posted on the front of the house or dwelling unit with 3.5-inch reflective numbers (6-inch reflective number if commercial or multi-family) or on the property according to Section 7-17 of the Town Code. The 911 address must be clearly posted on the interior of the dwelling unit to notify tenants in case of emergency.
- ~~g) Permits may be revoked upon repeated substantiated complaints resulting in a Notice of Violations of the Town Code related to noise, trash, pets, parking, etc. If the Town receives three (3) complaints within one (1) year that lead to violations of the Town Code, the permit may be revoked for a period of one (1) year, consistent with Section 16-7.5 of the Land Use Ordinance.~~

16-10.12.1. In addition to those areas zoned to allow short-term rentals (CB, TC, GB, OI), there are other areas where short-term rentals are permissible including Chetola Resort and Royals Oaks Condominiums (Overlay District). There are other properties that were previously operating short-term rentals or had permitted vested rights through Watauga or Caldwell County prior to being annexed or added to the Extraterritorial Jurisdiction. These properties have a legal nonconforming status that provides the opportunity for short-term rental. Each property owner that applies for a zoning permit for short-term rental use in areas not permitted by right or listed herein must provide historical documentation that the nonconformity has been legally obtained or a vested right has been legally established under NCGS 160D-108.

Proposed Clean Version of Ordinance:

Section 16-10.12. Short-Term Rentals. The Board finds that short-term rentals (STRs) are an appropriate use given the residential/resort character of Blowing Rock's planning jurisdiction, provided that specific controls are in place to regulate parking, trash, noise, tenant safety, and other related effects thereby protecting neighborhood property values, and the health, safety, and the general welfare of Town citizens and visitors.

Short-term rentals are defined as the rental, lease, or offer to make available, any attached or detached residential dwelling unit, or portion thereof, by way of a rental agreement, lease, license, or any other means, (whether oral or written) for compensation or consideration, for a duration that is less than 28 consecutive days. The following standards shall apply to all short-term rentals with the Town's planning jurisdiction:

- a) A zoning permit must be initially obtained for a change in use for each dwelling unit that is to be rented for a period of less than 28 days. The permit is not valid until a satisfactory inspection is completed.
- b) A local contact person or management company contact information must be clearly posted on the interior of the dwelling unit, and the person/company shall be available to respond to complaints or emergencies within two (2) hours.
- c) Sufficient off-street parking must be provided for each bedroom to be rented. The parking space must meet the minimum dimensional requirements in Section 16-20.6. Short-term rental units that exist on July 1, 2018, are grandfathered with respect to parking, but each bedroom added after this date requires an additional parking space.
- d) Adequate trash and recycling containers must be provided. If collection containers are kept in an enclosure bin, the bin must meet minimum design standards defined in the Town Code (ex. Placed within 6 to 12 feet of the edge of the street, opaque screening at least four feet high, etc.).
- e) The dwelling unit must be equipped with operable smoke detectors and carbon monoxide detectors consistent with the NC Building Code.
- f) The 911 address must be posted on the front of the house or dwelling unit with 3.5-inch reflective numbers (6-inch reflective number if commercial or multi-family) or on the property according to Section 7-17 of the Town Code. The 911 address must be clearly posted on the interior of the dwelling unit to notify tenants in case of emergency.

16-10.12.1. In addition to those areas zoned to allow short-term rentals (CB, TC, GB, OI), there are other areas where short-term rentals are permissible including Chetola Resort and Royals Oaks Condominiums (Overlay District). There are other properties that were previously operating short-term rentals or had permitted vested rights through Watauga or Caldwell County prior to being annexed or added to the Extraterritorial Jurisdiction. These properties have a legal nonconforming status that provides the opportunity for short-term rental. Each property owner that applies for a zoning permit for short-term rental use in areas not permitted by right or listed herein must provide historical documentation that the nonconformity has been legally obtained or a vested right has been legally established under NCGS 160D-108.

AN ORDINANCE AMENDMENT TO REVISE THE PERMITTING PROCESS OF SHORT-TERM RENTALS IN THE PLANNING AND ZONING JURISDICTION OF THE TOWN OF BLOWING ROCK, NORTH CAROLINA

WHEREAS, the Land Use Code was amended in 2018 to clarify the definition of short-term rentals and establish a permitting process for regulating lawful short-term rentals in the Blowing Rock Town Limits and Extraterritorial Jurisdiction; and

WHEREAS, the NC General Statutes specify that local governments are prohibited from requiring registrations for rental properties; and

WHEREAS, the NC Court of Appeals recently ruled that a permitting process for short-term rentals in the City of Wilmington are invalid and inconsistent with the NC General Statutes; and

WHEREAS, the Planning Board and Board of Commissioners agree that this ordinance amendment is consistent with the 2014 Comprehensive Plan Update, and helps to promote the health, safety, and general welfare of the citizens of the Town of Blowing Rock.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Blowing Rock, North Carolina, that:

Section 1. Section 16-10.12 of the Land Use Code of the Town of Blowing Rock is hereby amended to read as set forth herein.

“Section 16-10.12. Short-Term Rentals. The Board finds that short-term rentals (STRs) are an appropriate use given the residential/resort character of Blowing Rock’s planning jurisdiction, provided that specific controls are in place to regulate parking, trash, noise, tenant safety, and other related effects thereby protecting neighborhood property values, and the health, safety, and the general welfare of Town citizens and visitors.

Short-term rentals are defined as the rental, lease, or offer to make available, any attached or detached residential dwelling unit, or portion thereof, by way of a rental agreement, lease, license, or any other means, (whether oral or written) for compensation or consideration, for a duration that is less than 28 consecutive days. The following standards shall apply to all short-term rentals with the Town’s planning jurisdiction:

- a) A zoning permit must be initially obtained for a change in use for each dwelling unit that is to be rented for a period of less than 28 days. The zoning permit for short-term rental must be renewed annually through the Planning and Inspections office by paying any required fee and requesting an inspection. The permit is not valid until a satisfactory inspection is completed.
- b) A local contact person or management company contact information must be clearly posted on the interior of the dwelling unit, listed and the person/company shall be available to respond to complaints or emergencies within two (2) hours.
- c) Sufficient off-street parking must be provided for each bedroom to be rented. The parking space must meet the minimum dimensional requirements in Section 16-20.6. Short-term rental units that exist on July 1, 2018, are grandfathered with respect to parking, but each bedroom added after this date requires an additional parking space.

- d) Adequate trash and recycling containers must be provided. If collection containers are kept in an enclosure bin, the bin must meet minimum design standards defined in the Town Code (ex. Placed within 6 to 12 feet of the edge of the street, opaque screening at least four feet high, etc.).
- e) The dwelling unit must be equipped with operable smoke detectors and carbon monoxide detectors consistent with the NC Building Code.
- f) The 911 address must be posted on the front of the house or dwelling unit with 3.5-inch reflective numbers (6-inch reflective number if commercial or multi-family) or on the property according to Section 7-17 of the Town Code. The 911 address must be clearly posted on the interior of the dwelling unit to notify tenants in case of emergency.

~~g) Permits may be revoked upon repeated substantiated complaints resulting in a Notice of Violations of the Town Code related to noise, trash, pets, parking, etc. If the Town receives three (3) complaints within one (1) year that lead to violations of the Town Code, the permit may be revoked for a period of one (1) year, consistent with Section 16-7.5 of the Land Use Ordinance.~~

16-10.12.1. In addition to those areas zoned to allow short-term rentals (CB, TC, GB, OI), there are other areas where short-term rentals are permissible including Chetola Resort and Royals Oaks Condominiums (Overlay District). There are other properties that were previously operating short-term rentals or had permitted vested rights through Watauga or Caldwell County prior to being annexed or added to the Extraterritorial Jurisdiction. These properties have a legal nonconforming status that provides the opportunity for short-term rental. Each property owner that applies for a zoning permit for short-term rental use in areas not permitted by right or listed herein must provide historical documentation that the nonconformity has been legally obtained or a vested right has been legally established under NCGS 160D-108.”

Section 2. Severability; Conflict of Laws. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end, the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. Effective Date. This ordinance shall be effective upon being signed by the Mayor and Town Clerk.

Adopted this the ____ day of _____, 2022.

TOWN OF BLOWING ROCK

Charlie Sellers, Mayor

ATTEST:

Hilari H. Hubner, Town Clerk

Short-Term Rentals FAQs

1) What is considered a short-term rental (STR)?

Short-Term Rental. The rental, lease, or offer to make available, any attached or detached residential dwelling unit, or portion thereof, by way of a rental agreement, lease, license, or any other means, (whether oral or written) for compensation or consideration, for a duration that is less than 28 consecutive days.

2) Where are short-term rentals allowed?

Short term rentals are allowed in the following zoning districts: GB, O-I, CB, and TC. Short-term rentals are also allowed at Chetola Resort and the Royal Oaks Condominiums. A map is provided on the Town's website at this link:

3) Is a permit required for short-term rental use?

A zoning permit is required to change use categories from single-family to short-term rental to verify that STR use is allowed in the particular zoning district and that parking and other requirements are met.

In areas where short-term rental is already allowed, like Chetola Resort condominiums, a permit is not required.

4) What is the penalty for renting short-term in areas where it is not permitted?

A civil penalty of \$500.00 per day can be enforced for illegal short-term rentals.

5) What general requirements are there for short-term rental properties?

- An off-street parking space for each bedroom with dimensions of 9 feet by 18 feet.
- A posted 911 address
- Smoke detectors and carbon monoxide detectors to meet NC Building Code
- A local contact person or management company available to respond to complaints or emergencies within 2 hours

6) Does the short-term rental ordinance prevent family from using your home?

No. The Owner's family members are allowed to use the home on occasions but not for exchange of compensation or other consideration.

7) Are STR owners required to pay occupancy taxes to the Town of Blowing Rock?

Yes. STR owners are required to submit to the Town a 6% occupancy tax on rentals of any period less than 90 days. Payments must be made by the 20th of each month following the month of collection.

8) How do I file a complaint about a legally permitted short-term rental?

If the complaint is in reference to on-street parking, at-large pets, loose garbage, noise, or parties, please call the Blowing Rock Police at 828-295-5210.

9) How do I file a complaint about a suspected illegal short-term rental?

Please call the Planning and Inspections Office at 828-295-5240.

10) If I want to purchase a property where short-term rentals are permitted, do I need to obtain a new permit?

No. The approval transfers to the new property owner but some changes may be needed related to emergency contact numbers.

11) Does my permit for short-term rental expire?

A valid permit does not expire and the short-term rental use may be continued indefinitely as long as the terms and conditions of the permit are maintained. In rare instances, a permit can be revoked if the permit recipient fails to maintain the property consistent with the submitted plans, permit conditions, or requirements of the Land Use Code.

12) What happens if someone fails to comply with the rules applicable to short-term rentals?

The permit recipient can receive a civil penalty of up to \$500 and/or the permit can be revoked.

MEMORANDUM

TO: Blowing Rock Planning Board

FROM: Kevin Rothrock, Planning Director

SUBJECT: Downtown Development Standards Review and Consideration

DATE: October 11, 2022

Attached below is a background and summary of the evaluation and proposed draft ordinance to address density, setback, building height, east/west Main Street, landscaping, etc., in the downtown. Council asked the Planning Board to address these issues at the 2022 Winter Retreat.

BACKGROUND

At the August 2018 Planning Board meeting, an ad hoc subcommittee was formed to study the current development standards for Central Business and Town Center. The subcommittee was also asked to consider future development potential for the 321 Bypass and the standards that would govern that development.

Over the next several months, the subcommittee consisting of Pete Gherini, Mike Page, Wes Carter and David Harwood, met to discuss the development standards in downtown. The group also invited Sue Glenn as she had compiled substantial research on building heights and floor area ratios (FARs) in the downtown.

The group walked Main Street to visually comprehend the existing conditions of building heights, setbacks, sidewalk widths, mass, landscaping, design, etc. The group even had an opportunity to walk inside the JW Tweeds building to examine the 3 levels of the building and the mezzanine constructed on the main floor. The walk proved to be beneficial to more closely understand the relationship of buildings along both sides of Main Street and to conclude that east and west Main Street have a different character.

Beyond the discussion of measurable standards (height, setback, etc.), staff introduced the idea of eliminating residential density in the CB and TC districts. The thought is that if the building mass is controlled by height and setbacks and parking, why does it matter how many residential dwelling units are in the building? If a hotel can be built under the same height/setback standards at 21-22 rooms/acre, why not a mixed-use building with a residential density equal to that of a hotel?

Update: Residential Density was eliminated for CB and TC Districts in October 2021

DRAFT ORDINANCE AMENDMENT

I have attached a draft ordinance of the proposed amendments from 2018 to reflect the recommendation of the Planning Board on TC and CB building heights/setbacks/density, etc. One version is an underlined/strike through version to examine what has been changed from current ordinance. The other version is a clean copy.

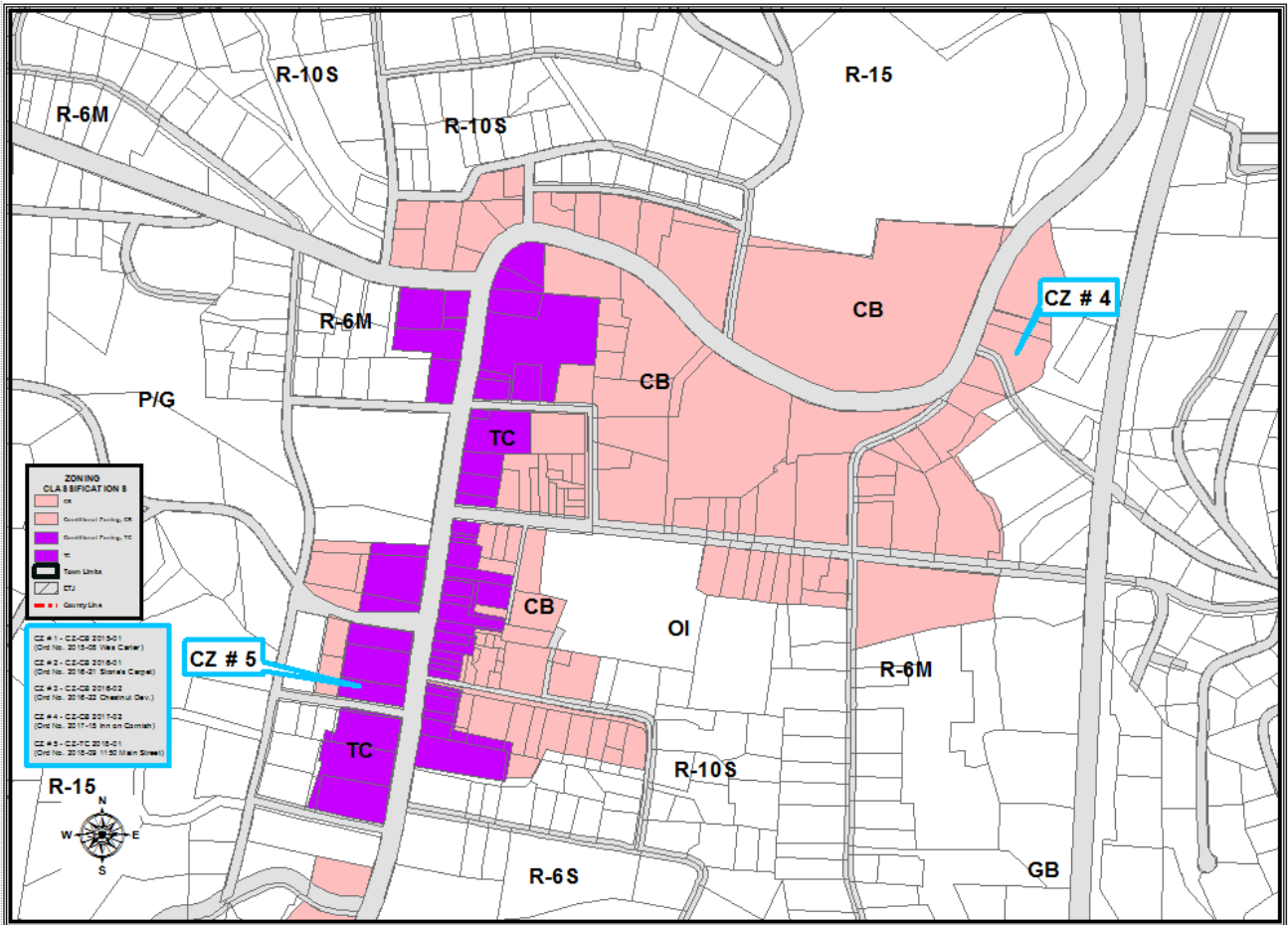
- There are some changes to building heights and setbacks for East side and West side of Main in Town Center and the rest of CB.
- There are changes to the open space and green space requirements and tree area requirements. The 40% green space was used by reviewing the 1150 Main Street project approved this summer at the BR Realty location.

Proposal Summary

- No residential density limitation in Town Center or Central Business. - **Completed**
- TC East Setback – 3 feet from back of sidewalk, 5-foot on sides unless existing is zero.
- TC West Setback – 15 feet from sidewalk, 5-foot on sides/rear.
- CB Setback – 15 feet from sidewalk, 5-foot on sides.
- All Districts – 15-foot side and rear setback if lot over 1 acre.
- TC East building height – 30 feet – flat roof likely. Measured from sidewalk. If building is set back at least 3 feet from sidewalk, building height is allowed to 35 feet.
- TC West building height – 35 feet – pitched roof likely. Measured from sidewalk.
- CB building height – 35 feet. If building is 30 feet back from sidewalk, height is measured from primary entrance. No other walls higher than 45 feet.
- Reduced greenspace from 75% to 40% and applicable only to CB and the West side of Main Street in TC. No greenspace required for East Main Street in TC.
- Reduced required area for shade trees from 300 sq ft to 250 sq ft of green space.

ATTACHMENTS

- Map of TC and CB zoning
- Draft Ordinance 2019-02
- Draft ordinance text – Clean Version



ORDINANCE NO. 2019-02

**AN ORDINANCE TO AMEND THE TOWN OF BLOWING ROCK LAND USE CODE
PERTAINING TO BUILDING HEIGHTS, STREET SETBACKS, GREEN SPACE AND
RESIDENTIAL DENSITY IN THE CENTRAL BUSINESS AND
TOWN CENTER DISTRICTS**

WHEREAS, the Planning Board and Town Council have recognized a need to evaluate and clarify some of the development standards pertaining to the Central Business District and Town Center District; and

WHEREAS, Section 16-12.2 of the Land Use Ordinance limits residential density in the Central Business District and Town Center District; and

WHEREAS, Section 16-12.6 of the Land Use Ordinance regulates various dimensional standards such as building heights, setbacks, open space and green space in the Central Business District and Town Center District; and

WHEREAS, after evaluation and study by a Planning Board subcommittee, the Planning Board recommends that current building height standards, and setback criteria need to be amended and specifically tailored to the Central Business District and the east side and west side of Main Street in the Town Center District to compliment and maintain the unique village characteristics of those specific zoning districts of the downtown; and

WHEREAS, the Planning Board and Board of Commissioners agree that this ordinance amendment is consistent with the 2014 Comprehensive Plan Update, and helps to promote the health, safety, and general welfare of the citizens of the Town of Blowing Rock.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Blowing Rock, North Carolina, that:

Section 1. Section 16-12.2 of the Land Use Ordinance is hereby amended to read as follows:

“Section 16-12.2 Residential Density. The following shall represent the maximum density permitted for residential uses in the various zoning districts:

16-12.2.3 Lots in the R-MH, ~~CB~~, GB, and HMC zoning districts, where residential developments are permissible, may be developed at a density equal to the density allowed within the R-6S District for single family developments, or the density allowed within the R-6M District for multi-family developments, whichever is applicable to the type of development that is being proposed. Lots in the CB and TC zoning districts are not subject to the residential density limitations.”

Section 2. Section 16-12.6 of the Land Use Ordinance is hereby amended to read as follows:

“Section 16-12.6 Central Business and Town Center Districts Setbacks, Building Height, Open Space, and Green Space Requirements. Lots developed in the Central Business District and Town Center District shall meet the following standards pertaining to setbacks, building heights, open space and green space areas, and other development criteria:

16-12.6.1 Setbacks. ~~For purposes of this section, primary streets shall be Main Street, Sunset Drive, and Hwy 221. Where a lot or property is bordered by more than one primary street, Main Street shall be the primary street. In such case, other streets shall be considered side streets.~~

Town Center – East side of Main Street

Street setback shall be three (3) feet. The setback shall be measured from the back of the public sidewalk. For consistency, the back of the public sidewalk shall be measured seven (7) feet from the back of the existing curb. Awnings are permitted in the street setback and may encroach over the public sidewalk provided the lowest portion is at least 7 feet above the sidewalk.

Side and rear setbacks shall be five (5) feet, unless a common or shared wall is possible. Lots that are one (1) acre or greater in size shall have 15-foot side and rear lot boundary setbacks.

Town Center – West side of Main Street

Street setback shall be 15 feet. The setback shall be measured from the back of the public sidewalk. For consistency, the back of the public sidewalk shall be measured seven (7) feet from the back of the existing curb. Awnings are permitted in the street setback and may encroach over the public sidewalk provided the lowest portion is at least 7 feet above the sidewalk.

Side setbacks shall be five (5) feet. Lots that are one (1) acre or greater in size shall have 15-foot side and rear lot boundary setbacks.

Central Business

Street setback shall be 15 feet. The setback shall be measured from the back of the public sidewalk. For consistency, the back of the public sidewalk shall be measured seven (7) feet from the back of the existing curb. Awnings are permitted in the street setback and may encroach over the public sidewalk provided the lowest portion is at least 7 feet above the sidewalk.

Side setbacks shall be five (5) feet. Lots that are one (1) acre or greater in size shall have 15-foot side and rear lot boundary setbacks.

16-12.6.1.1 All buildings may be rebuilt to the existing building footprint. This option may only be applied if, prior to the development or removal of the building, a survey is performed by a licensed North Carolina Surveyor to accurately determine the existing footprint. The exception is that any building on the east side of Main Street in the Town Center rebuilt from the original foundation must observe the 3-foot street setback.

~~16-12.6.1.2 If a proposed building is not built back to an existing footprint, or development is on vacant property, the following setback requirements apply.~~

~~16-12.6.1.2.1 Primary and side street setback(s) shall be the lesser of:~~

- ~~(a) 15% of the average lot depth, or~~
- ~~(b) 15 feet~~

~~16-12.6.1.2.2 A building may encroach into the required primary street setback along 50% of the lot width. However, no building may encroach closer than ten (10) feet from the back of the sidewalk. When a building is permitted to encroach into the required primary street setback, the displaced open/green space area must be placed within the front 1/3 of the lot.~~

~~16-12.6.1.3 In Sections 16-12.6.1.2.1 and 16-6.1.2.2 above, the setback shall be measured from the back of the public sidewalk. For the purposes of this subsection, public sidewalks are typically located within five (5) feet of the edge of the public street. The area between the buildings and the sidewalk shall be open space.~~

~~16-12.6.1.4 Side lot and rear boundary setbacks will be a minimum of five (5) feet. Common walls (i.e. zero (0) setbacks) are not allowed. Where an alley is not required by Section 16-12.6.7 "Alleys", green space is required in the areas between buildings and the side and rear property lines.~~

~~16-12.6.1.5 Lots that are one (1) acre or greater in size shall have 15-foot side and rear lot boundary setbacks."~~

Section 3. Section 16-12.6.2 of the Land Use Ordinance is hereby amended to read as follows:

"16-12.6.2 Open Space/Green Space. For purposes of this section, open space is defined as the gross land area not covered by a building, between the building and the public sidewalk.

~~16-12.6.2.1 In the Central Business District and the West side of Main Street in the Town Center District, Within the open space area, a minimum of 75 40 % of the open space at the front of the building, must be planted green space with an emphasis on large, ~~over-story~~, shade trees. Planted green space shall be defined as areas with grass, herbaceous ground cover, shrubbery, and drip line areas of mature, shade trees. Massive areas of mulch, void of vegetation, shall not be considered green space.~~

~~16-12.6.2.2 One (1) ~~over-story~~ shade tree (as defined in Appendix E, Section 10 (c), page 41) shall be planted for every ~~300~~ 250 square feet of required green space."~~

Section 4. Section 16-12.6.5 of the Land Use Ordinance is hereby amended to read as follows:

"16-12.6.5 Building Height. The following standards determine the applicable building heights for buildings in the Central Business and Town Center Districts.

16-12.6.5.1 Town Center – East side of Main Street

Maximum building height is limited to 30 feet, measured from the sidewalk elevation to the highest point of the structure. If the building is set back at least 3 feet from the back of the sidewalk, the maximum building height is 35 feet.

16-12.6.5.2 Town Center – West side of Main Street

Maximum building height is limited to 35 feet, measured from the sidewalk elevation to the highest point of the structure.

16-12.6.5.3 Central Business

The maximum building height shall be limited to ~~30~~ 35 feet, as measured from the average elevation of the existing or proposed sidewalk along the primary street to the highest point of the building or structure (Please refer to Appendix B for Diagram). Where an existing rock wall is located adjacent to an existing sidewalk, or where a property does not border a primary street on any side, the maximum height shall be measured from the average finished ground elevation adjacent to the primary entrance to the highest point of the building or structure.

~~16-12.6.5.1 The maximum building height shall also be limited to no more than a 25% increase above the average existing height of adjacent buildings, provided that at least two (2) stories shall be permitted. The average existing height shall be determined by the average height of existing buildings located within 100 feet of the proposed building, on the same side of the street, same block and use district. The lesser of a) 25% greater than the average existing heights or b) 30 feet shall determine the maximum allowable building height. Where the maximum building height is established, that maximum height shall govern the entire structure.~~

~~16-12.6.5.2 The maximum eave height shall be limited to 24 feet. The eave height shall be the vertical distance measured from the sidewalk to the lowest point of the eave above the primary entrance.~~

~~16-12.6.5.3 The maximum building height and maximum eave height for any building located 50 30 feet or more from the back of the existing or proposed sidewalk adjacent to a public street shall be measured from the average finished ground elevation adjacent to the primary entrance. For purposes of this paragraph, the entire structure must be located at or beyond the 50 30-foot setback. If the building is located 50 feet or more from the sidewalk, the eave height shall be the vertical distance measured from the adjacent grade at the primary entrance to the lowest point of the eave above the primary entrance. Maximum building heights may exceed 30 feet, and the maximum eave height may exceed 24 feet, if the building is set back beyond the standard 15-foot setback. No building height in the Central Business or Town Center may exceed 40 feet. Additionally, n No other building walls (rear, side, etc.), measured from the average finished grade along the base of the wall to the highest point of the structure may exceed 40 45 feet. The following table shall be used to determine the maximum building height and eave height based on the proposed building setback from any street:~~

Setback	Maximum Building Height	Maximum Eave Height
15	30	24

20	31	25
25	32	26
30	33	27
35	34	28
40	35	29
45	36	30
50	37*	31*
55	38*	32*
60	39*	33*
—65	40*	34*

*measured from finished ground elevation adjacent to primary entrance to building

~~Where a building is permitted to encroach into the 15-foot setback as provided in Section 16-12.6.1.2.1(b) the building height for that part of the building forward of the 15-foot setback must be reduced one (1) foot for every one (1) foot of setback encroachment."~~

Section 5. Severability; Conflict of Laws. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end, the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 6. Effective Date. This ordinance shall be effective upon adoption.

Adopted this the _____ day of _____, 2019

Charlie Sellers, Mayor

ATTEST: _____
Hilari H. Hubner, Town Clerk

**Amendments to Residential Density and Building Heights and Setbacks in CB and TC –
Clean Copy**

RESIDENTIAL DENSITY

Section 16-12.2 Residential Density. The following shall represent the maximum density permitted for residential uses in the various zoning districts:

16-12.2.3 Lots in the R-MH, GB, and HMC zoning districts, where residential developments are permissible, may be developed at a density equal to the density allowed within the R-6S District for single family developments, or the density allowed within the R-6M District for multi-family developments, whichever is applicable to the type of development that is being proposed. Lots in the CB and TC zoning districts are not subject to the residential density limitations.

BUILDING SETBACKS AND BUILDING HEIGHT

Section 16-12.6 Central Business and Town Center Districts Setbacks, Building Height, Open Space, and Green Space Requirements. Lots developed in the Central Business District and Town Center District shall meet the following standards pertaining to setbacks, building heights, open space and green space areas, and other development criteria:

16-12.6.1 Setbacks.

16-12.6.1.1 Town Center – East side of Main Street.

Street setback shall be three (3) feet. The setback shall be measured from the back of the public sidewalk. For consistency, the back of the public sidewalk shall be measured seven (7) feet from the back of the existing curb. Awnings are permitted in the street setback and may encroach over the public sidewalk provided the lowest portion is at least 7 feet above the sidewalk.

Side and rear setbacks shall be five (5) feet, unless a common or shared wall is possible. Lots that are one (1) acre or greater in size shall have 15-foot side and rear lot boundary setbacks.

16-12.6.1.2 Town Center – West side of Main Street.

Street setback shall be 15 feet. The setback shall be measured from the back of the public sidewalk. For consistency, the back of the public sidewalk shall be measured seven (7) feet from the back of the existing curb. Awnings are permitted in the street setback and may encroach over the public sidewalk provided the lowest portion is at least 7 feet above the sidewalk.

Side setbacks shall be five (5) feet. Lots that are one (1) acre or greater in size shall have 15-foot side and rear lot boundary setbacks.

16-12.6.1.3 Central Business.

Street setbacks shall be 15 feet. The setback shall be measured from the back of the public sidewalk. For consistency, the back of the public sidewalk shall be measured seven (7) feet from the back of the existing curb. Awnings are permitted in the street setback and may encroach over the public sidewalk provided the lowest portion is at least 7 feet above the sidewalk.

Side setbacks shall be five (5) feet. Lots that are one (1) acre or greater in size shall have 15-foot side and rear lot boundary setbacks.

All buildings may be rebuilt to the existing building footprint. This option may only be applied if, prior to the development or removal of the building, a survey is performed by a licensed North Carolina Surveyor to accurately determine the existing footprint. The exception is that any building on the east side of Main Street in the Town Center rebuilt from the original foundation must observe the 3-foot street setback.

16-12.6.2 Open Space/Green Space. For purposes of this section, open space is defined as the gross land area not covered by a building, between the building and the public sidewalk.

16-12.6.2.1 In the Central Business District and the West side of Main Street in the Town Center District, a minimum of 40 % of the open space at the front of the building, must be planted green space with an emphasis on large shade trees. Planted green space shall be defined as areas with grass, herbaceous ground cover, shrubbery, and drip line areas of mature, shade trees. Massive areas of mulch, void of vegetation, shall not be considered green space.

16-12.6.2.2 One (1) shade tree shall be planted for every 250 square feet of required green space.

16-12.6.3 Tree Protection. All existing trees eight (8) inches in diameter at breast height (dbh) and greater shall be retained to the extent reasonably practical. If saving such trees, especially those located within the proposed building footprint, would cause undue hardship on the developer, those trees may be removed through the approval of the Board of Commissioners. All proposed developments in the Central Business and Town Center Districts shall submit a site plan with a tree survey that locates all trees eight (8) inches dbh and greater. The Board of Commissioners shall specifically approve the removal of any trees eight (8) inches dbh and greater during site plan approval. Any trees designated for protection shall be replaced with a tree of similar species at least three (3) inches in diameter (measured 6 inches above grade), if the tree dies or must be removed due to unforeseen construction activities.

16-12.6.4 Retaining Walls. All retaining walls shall be preserved and maintained. If the retaining wall is in poor structural condition, a new wall must be built back to replicate the original wall.

16-12.6.4.1 New retaining walls in the Central Business and Town Center Districts that are adjacent to a street shall be made of natural, locally found stone. Cultured stone that has the appearance of natural, locally found stone may be used as a substitute.

16-12.6.4.2 The Board of Commissioners recognize the need for compliance with ADA requirements and will consider such when reviewing a request for removal, or modification, of existing retaining walls.

16-12.6.5 Building Height. The following standards determine the applicable building heights for buildings in the Central Business and Town Center Districts.

17-12.6.5.1 Town Center – East side of Main Street

Maximum building height is limited to 30 feet, measured from the sidewalk elevation to the highest point of the structure. If the building is set back at least 3 feet from the back of the sidewalk, the maximum building height is 35 feet.

17-12.6.5.2 Town Center – West side of Main Street

Maximum building height is limited to 35 feet, measured from the sidewalk elevation to the highest point of the structure.

17-12.6.5.3 Central Business

The maximum building height shall be limited to 35 feet, as measured from the average elevation of the existing or proposed sidewalk along the primary street to the highest point of the building or structure (Please refer to Appendix B for Diagram). Where an existing rock wall is located adjacent to an existing sidewalk, or where a property does not border a primary street on any side, the maximum height shall be measured from the average finished ground elevation adjacent to the primary entrance to the highest point of the building or structure.

The maximum building height for any building located 30 feet or more from the back of the existing or proposed sidewalk adjacent to a public street shall be measured from the average finished ground elevation adjacent to the primary entrance. For purposes of this paragraph, the entire structure must be located at or beyond the 30-foot setback. No other building walls (rear, side, etc.), measured from the average finished grade along the base of the wall to the highest point of the structure may exceed 45 feet.

16-12.6.6 Property Grades and Elevations. Property grade elevations shall be maintained as reasonably practical. The Board of Commissioners shall have the authority to determine if the proposed grade elevations are consistent with the character of the Central Business and Town Center areas.

16-12.6.7 Alleys. Alleys that connect adjacent lots and provide parking, delivery access, utility access, and garbage pickup will be strongly encouraged. Alleys may be required in certain situations through a conditional use permit.