

**Article III. ADMINISTRATION****Part I. Planning Commission****Section 21: Appointment and Terms of Planning Commissioners**

- (a) There shall be a Town of Middleburg Planning Commission consisting of no less than five or more than fifteen members appointed in accordance with the provisions of Section 15.2-2212 of the Code of Virginia, 1950, as amended. (Amended 5/14/98)
- (b) Planning commissioners shall be appointed by the town council for four-year staggered terms, but members may continue to serve until their successors have been appointed. Appointments shall be made so that all terms expire on the 31<sup>st</sup> day of December and commence on January 1, unless appointments are made for the unexpired portion of a term. (Amended 2/13/97)
- (c) Planning commissioners may be removed by the town council at any time for malfeasance in office. The town council shall hold a hearing on the removal if requested by the member proposed for removal.

**Section 22: Meetings of the Planning Commission**

- (a) The planning commission shall establish a regular meeting schedule and shall meet frequently enough to take action in conformity with Section 63 (Applications to be Processed Expeditiously). The commission shall meet at least once annually.
- (b) Special meetings of the commission may be called by the chairman or by two members upon written request to the chairman. The chairman shall mail to all members, at least five days in advance of a special meeting, a written notice fixing the time and place of the meeting and the purpose thereof. Written notice of a special meeting is not required if the time of the special meeting was fixed at a regular meeting or if all members are present at the special meeting or file a written waiver of notice.
- (c) The commission shall adopt rules for the transaction of business and shall keep minutes of all commission proceedings.

**Section 23: Quorum and Voting**

A majority of the commissioners shall comprise a quorum of the planning commission and no action of the commission shall be valid unless authorized by a majority vote of those present and voting.

**Section 24: Planning Commission Officers**

- (a) The planning commission shall, at its first meeting in January of each year, elect one of its members to serve as chairman and preside over the commission's meetings and one member to serve as vice-chairman. Election of officers shall require a majority vote of those present and voting. The chairman and vice-chairman shall serve one-year terms. Vacancies in these offices may be filled for the unexpired terms by majority vote of those present and voting.
- (b) The chairman and vice-chairman may take part in all deliberations and vote on all issues.
- (c) The commission may create and fill such other offices as it deems necessary.

**Section 25: Powers and Duties of the Planning Commission**

- (a) The planning commission shall:
  - (1) Prepare and recommend to the town council a comprehensive plan for the growth, development and redevelopment of the town and surrounding extraterritorial subdivision area;
  - (2) Prepare and recommend to the town council amendments to the subdivision regulations;
  - (3) Prepare and recommend to the town council policies, ordinances, administrative procedures, and other methods for achieving plans in a coordinated and efficient manner;
  - (4) Initiate or make recommendations to the town council concerning proposed special use permit applications and zoning map and text changes, as required by Sections 57 and 253;
  - (5) Make recommendations and an annual report to the town council concerning the operation of the commission and the status of planning within the town;
  - (6) Exercise general supervision of, and make regulations for, the administration of its affairs;
  - (7) Prescribe rules pertaining to its investigations and hearings;
  - (8) Supervise its fiscal affairs and responsibilities, under rules and regulations as prescribed by the town council;

- (9) Keep a complete record of its proceedings and be responsible for the custody and preservation of its papers and documents;
- (10) Prepare, publish and distribute reports, ordinances and other material relating to its activities;
- (11) Prepare and submit an annual budget in the manner prescribed by the town council; and,
- (12) Establish advisory committees from time to time to help carry out its planning responsibilities in a particular subject area.

## **Part II. Board Of Zoning Appeals**

### **Section 26: Appointment and Terms of Board of Zoning Appeals**

- (a) A board of zoning appeals (hereinafter referred to as the board) consisting of five members shall be appointed by the Circuit Court of Loudoun County. The secretary of the board shall notify the circuit court at least 30 days prior to the expiration of any term of office and promptly when vacancies occur. The secretary shall submit names from the mayor and town council for the court's consideration. The board shall serve without compensation. One of the five appointed members may be an active member of the planning commission.
- (b) The present board shall continue as the board of zoning appeals under the provisions of this ordinance and pursuant to authority and provisions of Section 15.2-2308 of the Code of Virginia, 1950. (Amended 5/14/98)
- (c) The term of office of each member of the board shall be for five years, except that original appointments shall be made so that the term of one member shall expire each year. Board vacancies shall be filled for the unexpired term only.
- (d) Any member may be removed for malfeasance, misfeasance or non-feasance in office, or for other just cause by the appointing authority upon written charges and after a hearing, held at least 15 days after notice is given.

### **Section 27: Meetings of the Board**

- (a) The board of zoning appeals shall meet at least once annually and shall meet frequently enough so that it can take action in conformity with Section 63 (Applications to be Processed Expeditiously).
- (b) The board shall conduct its meetings in accordance with the procedures set forth in Article IV.
- (c) All board meetings shall be open to the public and, whenever feasible, the agenda for each board meeting shall be made available in advance of the meeting.

### **Section 28: Quorum and Voting**

- (a) A quorum for the board of zoning appeals shall consist of three members. A quorum is necessary for the board to take official action.
- (b) In addition to the requirements of subsection (a), a concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer, or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance.

- (c) A roll call vote shall be taken upon the request of any member.

**Section 29: Board of Zoning Appeals Officers**

- (a) The board of zoning appeals shall elect one of its members to serve as chairman and preside over the board's meetings and one member to serve as vice-chairman. The election shall be held at the first meeting in January of each year. The chairman and vice-chairman shall serve one-year terms. Vacancies in these offices may be filled for the unexpired terms only.
- (b) The chairman or any member temporarily acting as chairman may administer oaths to witnesses coming before the board.
- (c) The chairman and vice-chairman may take part in all deliberations and vote on all issues.
- (d) The board shall appoint a secretary to prepare minutes of meetings, keep all records and conduct official correspondence. When authorized by the town council, a court stenographer shall be employed to record such proceedings as the town council may direct.

**Section 30: Powers and Duties of the Board of Zoning Appeals**

- (a) The board shall hear and decide:
  - (1) Appeals from any order, requirement, decision, determination or interpretation made by the zoning administrator or other administrative officer in the administration or enforcement of this ordinance.
  - (2) Applications for variances, as provided in Section 44.
  - (3) Applications for interpretation of the zoning map, including disputed district boundaries, as provided in Section 45.
- (b) The board shall adopt such rules and regulations as it may deem appropriate for the proper conduct of its business, and to carry into effect the provisions of this ordinance, subject to provisions of this ordinance and the general laws of the Commonwealth of Virginia.
- (c) No provision of this ordinance shall be construed as granting the board the power to rezone property.

### **Part III. Zoning Administrator**

#### **Section 31: Appointment and Duties of Zoning Administrator**

- (a) This ordinance shall be administered and enforced by the zoning administrator (administrator) who shall be appointed by the town council.
- (b) The administrator shall have all necessary authority on behalf of the governing body to administer and enforce the zoning ordinance, including the following:
  - (1) Interpret the provisions of this ordinance, including the authority to make conclusions of law and findings of fact, with concurrence of the attorney for the governing body, in connection with administration, application and enforcement of the ordinance in specific cases, including determinations of rights accruing under Title 15.2-2307, Code of Virginia, 1950 (as amended). (Amended 5/14/98)
  - (2) Conduct inspections of buildings, structures, and uses of land to determine compliance with this ordinance, and, in the case of any violation, to notify in writing the person or persons responsible specifying the nature of the violation and ordering appropriate corrective action. Any written notice of a zoning violation or a written order of the zoning administrator shall include a statement informing the recipient that he may have a right to appeal the same within 30 days in accordance with the provisions of Title 15.2-2311, Code of Virginia, 1950, (as amended) and that the decision shall be final and unappealable if not appealed within thirty days. (Amended 5/14/98)
  - (3) Maintain the zoning map in current status, including appropriate symbols showing the existence of proffered conditions.
  - (4) Maintain permanent and current records required by this ordinance, including but not limited to zoning permits, occupancy certificates, and all official actions on administrative appeals, variances, special exceptions, conditional uses, amendments, changes of zoning district boundaries, reclassification of property and conditional zoning index.
  - (5) Prepare and submit an annual report to the town council on the administration of this ordinance, setting forth such statistical data and information as may be of interest and value in advancing and furthering the purpose of this ordinance.
  - (6) Maintain a true copy of this ordinance in current status and file the same in the office of the Clerk of the Circuit Court of Loudoun County, Virginia.

- (7) Bring legal action to insure compliance with the ordinance, including injunction, abatement, or other appropriate action or proceeding.
- (8) Administer and enforce proffered conditions attached to a rezoning or amendment to a zoning map.

#### **Part IV. Town Council**

##### **Section 32: The Town Council**

- (a) The town council shall consider special use permit applications in accordance with Articles V and VI of this ordinance.
- (b) The town council shall consider changes in the text of this ordinance or in the zoning district map in accordance with Article XVIII of this ordinance.
- (c) The town council shall hear all appeals from the decision of the zoning administrator relating to proffered conditions in accordance with Section 50 of this ordinance.
- (d) The town council shall follow regular voting, and other requirements of the town code, town charter or general law when acting upon special use permit applications or considering amendments to this ordinance or the zoning district map.

## **Part V. Historic District Review Committee**

### **Section 33: Purpose** (Added 1/9/03)

The purpose of the Historic District Review Committee shall be to administer the provisions of Part 1 of Article XVII and to advise and assist the Town Council in its efforts to preserve and protect historic, architectural, and archaeological resources in the Town.

### **Section 33.1: Authority and Establishment** (Added 1/9/03)

The Historic District Review Committee (HDRC) established heretofore pursuant to Section 15.2-2306 of the Code of Virginia shall continue as the Historic District Review Committee for the purposes of this Ordinance. Such body shall also be known by the abbreviation of "HDRC".

### **Section 33.2: Appointment and Terms of Committee Members**

- (a) An historic district review committee, comprised of eight members, shall be appointed by the town council. A majority of the members shall be town residents or owners of both real property and a business within the Historic Middleburg District, and all shall have a demonstrated interest, competence or knowledge of historic preservation within the town. At least one member shall be an architect or architectural historian, and at least two additional members shall have professional training or equivalent experience in architecture, landscape architecture, history, architectural history, archaeology or planning. One member may also be a member of the Planning Commission. (Amended 2/11/99, 1/9/03)
- (b) The term of office of each member of the committee shall be for three years, and the terms shall be staggered. Appointments shall be made so that all terms expire on the 31<sup>st</sup> day of December and commence on January 1, unless appointments are made for the unexpired portion of a term. Committee vacancies shall be filled for the unexpired term only within 60 days of their occurrence. A member whose term has expired shall continue to serve until a successor is appointed. (Amended 2/13/97, 1/9/03)
- (c) Any member may be removed for malfeasance, misfeasance or non-feasance in office, or for other just cause by the appointing authority upon written charges and after a hearing, held at least 15 days after notice is given.

### **Section 34: Meetings of the Committee**

- (a) The committee shall meet at least once a month or frequently enough so that it can take action in conformity with Section 63 (Applications to be Processed Expeditiously). Special meetings may be called by the chairman upon 24 hours notice to each member. (Amended 6/11/98)
- (b) The committee shall conduct its meetings in accordance with the procedures set forth in Article XVII.

- (c) All committee meetings shall be open to the public and, whenever feasible, the agenda for each committee meeting shall be made available in advance of the meeting.

**Section 35: Historic District Review Committee Officers** (Amended 1/9/03)

- (a) The historic district review committee shall elect one of its members to serve as chairman and preside over committee meetings and one member to serve as vice-chairman. The election shall be held at the first meeting in January of each year. The chairman and vice-chairman shall serve one-year terms and may succeed themselves. Vacancies in these offices may be filled for the unexpired terms only. (Amended 1/9/03)
- (b) The chairman shall conduct the meeting of the committee, may take part in all deliberations, but shall only vote in cases required to break a tie unless his presence is required in order to achieve a quorum. In an instance in which the chairman's presence is required to achieve a quorum, the chairman shall be a voting member of the committee. (Amended 1/9/03, 04/10/03, 11/18/10)
- (c) The vice-chairman shall possess the powers and discharge the duties of the chairman when serving as chairman. The vice-chairman may take part in all deliberations and vote on all issues. (Amended 1/9/03, 11/18/10)
- (d) The committee shall appoint a secretary to prepare minutes of meetings, keep all records and conduct official correspondence.

**Section 36: Quorum and Voting** (Amended 1/9/03)

- (a) Four voting members of the committee shall constitute a quorum for the transaction of business at any meeting. A quorum is necessary for the committee to take official action. (Amended 1/9/03, 04/10/03, 11/18/10)
- (b) All actions of the committee shall require a majority vote of the membership, a quorum being present.
- (c) A roll call vote shall be taken upon the request of any member.
- (d) Members shall exempt themselves from voting on any action in which their financial interests or those of their immediate family or employer are directly involved. (Amended 1/9/03)

**Section 37: Powers and Duties of the Historic District Review Committee**

The historic district review committee shall:

- (a) Assist and advise the town council and planning commission in matters involving historically- significant sites and buildings.

- (b) Conduct studies deemed necessary by the town council and planning commission concerning means of preservation and utilization of historic assets in the town.
- (c) Formulate recommendations to the town council concerning the establishment of an appropriate system of markers for selected historic sites and buildings, including proposals for the installation and care of such historic markers.
- (d) Cooperate with and enlist assistance from the Virginia Department of Historic Resources, the National Trust for Historic Preservation, and other interested parties, both public and private, in its efforts to preserve, restore, and conserve historic landmarks, buildings, sites or areas within the town.
- (e) Act on applications for certificates of appropriateness, in accordance with the provisions of Article VII. (Amended 6/11/98)
- (f) Initiate proposals for additions to or changes in historic district boundaries or creation of new historic districts. (Added 6/11/98)
- (g) Adopt and maintain written bylaws and any other rules the committee deems necessary for the proper conduct of committee business. (Added 6/11/98)

**Sections 38 through 42: Reserved**