

## CHAPTER 11: OFFICIALS, BOARDS, AND COMMISSIONS

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### 11.01 Zoning Administrator

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- A. **Powers and Duties.** The Zoning Administrator has the responsibility to administer, interpret, and enforce the provisions of the Zoning Ordinance. The terms, purposes, intent, and spirit of the Zoning Ordinance guide the Zoning Administrator in all actions pursuant to the Zoning Ordinance. At the request of the Zoning Administrator and pursuant to their respective fields, the Health Officer, Sheriff, and all other County officials assist the Zoning Administrator in the enforcement of the Zoning Ordinance. Specifically, the Zoning Administrator's powers and duties include:
1. Interpret the Zoning Ordinance;
  2. Issue Determinations of the Zoning Ordinance as provided in Section 10.02;
  3. Issue Advisory Opinions regarding the Zoning Ordinance;
  4. Grant Administrative Waivers and Modifications as provided in Section 10.03;
  5. Issue Zoning Permits where the requirements of the Zoning Ordinance have been met;
  6. Receive and review:
    - a. Applications for Variances;
    - b. Notices of appeal to the BZA;
    - c. Applications for Certificates of Occupancy;
    - d. Applications for Certificates of Appropriateness; and
    - e. All other applications, certifications, or materials required by the Zoning Ordinance to be submitted to the Zoning Administrator;
  7. Conduct inspections of structures and uses of land to determine compliance with the provisions of the Zoning Ordinance;
  8. Maintain accurate records of proffered conditions as required by Section 10.10.03 of the Zoning Ordinance;
  9. Enforce the provisions of the Zoning Ordinance, the decisions of the BZA and conditions and proffers subject to which approvals of the BZA, Planning Commission, and Board of Supervisors were made;
  10. Maintain the inventory of structures within an Historic Site or Historic and Cultural Conservation district as required by Section 5.08.J;
  11. Perform such other duties and functions as may be required by the Zoning Ordinance and the Board of Supervisors;
  12. Maintain and make available for public inspection and copying the official Zoning Map, the Zoning Ordinance, and the minimum submission requirements;
  13. Maintain a compilation of the interpretations and opinions of the Zoning Administrator for public review; and

14. In specific cases to make findings of fact and, with the concurrence of the County Attorney, conclusions of law regarding determinations of rights accruing under Code of Virginia §§ 15.2-2307 or 15.2-2311(C).
- B. **60-Day Limit for Good Faith Reliance.** In no event is a written order, requirement, decision, or determination made by the Zoning Administrator subject to change, alteration, or reversal by any Zoning Administrator after 60 days have elapsed from the date of the written order, requirement, decision or determination where anyone has materially changed their position in good faith reliance on the action of the Zoning Administrator unless it is proven that such written order, requirement, decision, or determination was obtained through malfeasance of the Zoning Administrator or through fraud. The 60-day limitation period does not apply in any case where, with the concurrence of the County Attorney, change is required to correct clerical errors.

## 11.02 Planning Commission

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**Purpose.** *The Planning Commission advises the Board of Supervisors on matters related to the orderly growth and Development of Loudoun County.*

- A. **Created.** The Planning Commission is created pursuant to Code of Virginia § 15.2-2210.
- B. **Membership.** The Planning Commission consists of 9 members, each appointed by a member of the Board of Supervisors. Eight of the members represent a Loudoun County election district, and 1 member serves at-large.
  1. **Qualifications.**
    - a. All members must be Loudoun County residents.
    - b. At least one-half of the members must be owners of real property.
    - c. All members must be qualified by knowledge and experience to make recommendations regarding community growth and development.
  2. **Terms.** Terms of office are 4 years that run concurrently with those of the Board of Supervisors.
  3. **Officers.** The Planning Commission must elect from the appointed members a Chair and a Vice-Chair, whose terms are 1 year.
  4. **Vacancies.** Vacancies are filled by appointment by the Board of Supervisors for the unexpired term only.
  5. **Compensation.** Members may receive compensation for their services as authorized by the Board of Supervisors.
  6. **Removal.** The Board of Supervisors may remove any member for malfeasance in office.
- C. **Meetings.**
  1. **Regular Meetings.** The Planning Commission must hold regular meetings at a fixed time at least once every two months or as otherwise scheduled by the Planning Commission.
  2. **Continued Meetings.** The Planning Commission may, by resolution adopted at a regular meeting, fix the day or days to which any meeting will be continued if the presiding Chair finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting.
    - a. Such finding must be communicated to the members and the press as promptly as possible.
    - b. All items previously advertised for such meeting will be conducted at the continued meeting.
    - c. No further advertisement is required.
  3. **Special Meetings.** Special Planning Commission meetings may be called by the Chair or by two members upon written request to the Secretary.
    - a. The Secretary will cause to be mailed or delivered to all members, in writing at least 5 days in advance of a special meeting, a written notice setting the time, place, and purpose of the meeting.
    - b. Written notice of a special meeting is not required if:

1. The time of the special meeting was scheduled at a previous regular meeting;
  2. All members are present at the special meeting; or
  3. They file a written waiver of the required notice.
4. **Quorum.**
- a. A majority of the members constitutes a quorum.
  - b. No action of the Planning Commission is valid unless authorized by a majority vote of those present and voting.
- D. **Powers and Duties.** The Planning Commission has the following powers and duties:
1. Prepare and recommend a Comprehensive Plan for the physical development of Loudoun County;
  2. Approve or deny Commission Permit applications;
  3. Review and make recommendations on Zoning Ordinance Amendment, Zoning Map Amendment, Zoning Concept Plan Amendment, Special Exception, Minor Special Exception, and Zoning Modification applications;
  4. Review and recommend amendments to the Land Subdivision and Development Ordinance (LSDO).
  5. Conduct public hearings as required by the Code of Virginia;
  6. Adopt rules, bylaws, and procedures, consistent with the ordinances of the County and the general laws of the Commonwealth for the administration of its affairs and exercise the general supervision of the administration of its own affairs;
  7. Supervise its fiscal affairs and responsibilities, under rules and regulations as prescribed by the Board of Supervisors; and
  8. Establish advisory committees or subcommittees.
- E. **Records.** The Planning Commission must keep written records and minutes of all its proceedings, including the names and addresses of all persons giving testimony, the Planning Commission findings of fact, and the vote of each member upon each question, or if absent or failing to vote, such fact.
- F. **Reports.** Prepare an annual report to the Board of Supervisors concerning Planning Commission operations and the status of planning within the county. Prepare, publish, and distribute reports, ordinances, and other materials relating to its activities.

## 11.03 Board of Zoning Appeals

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**Purpose.** *The Board of Zoning Appeals (BZA) hears and decides Appeals of the Zoning Administrator's orders, requirements, decisions, or determinations as provided in the Zoning Ordinance, and Variance, and Special Exception for Errors in Location applications.*

- A. **Created.** The BZA is created pursuant to Code of Virginia § 15.2-2308.
- B. **Membership.** The BZA consists of 7 members appointed by the Loudoun Circuit Court. To assist with the membership appointment process, the County Administrator or his designee will accept applications, screen candidates, and forward applications to the Chief Judge of the Loudoun Circuit Court for consideration.
1. **Qualifications.**
    - a. All BZA members must be Loudoun County residents.
    - b. Members must hold no other public office in Loudoun County, except:
      1. One member may be a Planning Commission member;
      2. Any member may be appointed to serve as an officer of election; and
      3. Any elected official of an incorporated town.

## 2. Officers.

- a. **Chair.** The BZA must elect, from its own membership, a Chair to serve a 1-year term. Successive terms are permitted.
- b. **Secretary.** The County may designate a staff member to serve as Secretary to the BZA. The Secretary prepares minutes of meetings, keeps all records, and conducts official correspondence. The BZA may employ a court stenographer to record BZA proceedings.

## 3. Terms.

Term of office is 5 years, with the term of 1 member expiring each year.

- a. The Secretary of the BZA must notify the Loudoun Circuit Court at least 30 days in advance of the expiration of any term of office.
- b. The Secretary of the BZA must notify the Loudoun Circuit Court promptly of any vacancy. Appointments to fill such vacancies are only for the unexpired portion of the term.
- c. A member whose term expires continues to serve until a successor is appointed.
- d. Members may be reappointed to successive terms.

## 4. Removal.

Any member of the BZA may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by the court that appointed the member, after a hearing held after at least 15 days' notice to the member sought to be removed.

## C. Meetings and Hearings.

1. Meetings or hearings of the BZA are held at the call of the Chair, or acting Chair, or at the request of any 2 members, provided that notice thereof has been mailed or delivered to each member of the BZA at least 7 days before the time set or a waiver or notice is obtained from each member.
2. All BZA hearings are open to the public.
3. In all BZA hearings, the BZA must offer an equal amount of time on the case to the applicant, appellant or other person aggrieved, and staff.
4. Any BZA member is disqualified to act upon a matter before the BZA with respect to their own property.
5. Only members of the BZA may vote on matters before the BZA.
6. For the conduct of a hearing, the taking of any action, or the transaction of any official business, a quorum is necessary. No less than a majority of all members of the BZA constitutes a quorum.
7. Except for Appeals pursuant to Section 10.14, no action of the BZA is valid unless authorized by a majority vote of those present and voting. On Appeals pursuant to Section 10.14 the concurring vote of a majority of the membership of the BZA is necessary to reverse any order, requirement, decision or determination appealed from.
8. If the BZA's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

## 9. Witnesses and Speakers.

- a. All witnesses and speakers presenting facts and evidence before the BZA, including the Zoning Administrator when a party, must give oath or affirmation regarding the truth of their statements.
- b. The presiding Chair may administer oaths, for the benefit of the BZA, and compel the attendance of witnesses.
- c. Every person before the rostrum must abide by the order and direction of the presiding Chair. Discourteous, disorderly, or contemptuous conduct will be regarded as a breach of the privileges extended by the BZA and will be dealt with as the presiding Chair deems proper.

## 10. Ex Parte Communications.

- a. The non-legal County staff may have *ex parte* communication with a BZA member prior to a hearing but may not discuss the facts or law relative to a particular case.

- b. The applicant, landowner or his agent, or attorney may have *ex parte* communications with a BZA member prior to a hearing but may not discuss the facts or law relative to a particular case.
- c. If any *ex parte* discussion of facts or law in fact occurs, the party engaging in such communication must inform the other party as soon as practicable and advise the other party of the substance of such communication.
- d. For purposes of this Section, regardless of whether all parties participate, *ex parte* communications do not include discussions:
  1. As part of a public meeting; or
  2. Prior to a public meeting to which County staff, the applicant, landowner, or his agent or attorney are all invited.
- e. This Section does not apply to special exception applications before the BZA as authorized by Section 10.11.

## 11. Rehearing.

- a. A request for a rehearing of a BZA decision must:
  1. Be in writing;
  2. Recite the reasons for the rehearing; and
  3. Be delivered to the Zoning Administrator within 15 days after the date of the relevant decision.
- b. A rehearing may then be granted by the Chair or upon the affirmative vote of any 2 members.
- c. If granted, the rehearing stays the finality of the decision until a decision is rendered on rehearing.

## 12. Continued Meetings.

- a. The BZA may, by resolution adopted at a regular meeting, fix the day or days to which any meeting is continued if the presiding Chair finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting.
- b. Such finding must be communicated to the members and the press as promptly as possible.
- c. All hearings and other matters previously advertised for such meeting must be conducted at the continued meeting and, notwithstanding any other provision of the Zoning Ordinance, no further advertisement is required.

## D. Powers and Duties. The BZA has the following powers and duties:

1. Hear and decide appeals from decisions of the Zoning Administrator regarding interpretation of the official Zoning Map where there is uncertainty as to the location of a zoning district boundary.
  - a. After notice to the owners of the property affected by any such interpretation, and after a public hearing thereon, the BZA must interpret the map in such a way as to carry out the purpose and intent of the Zoning Ordinance for the particular district in question and must be guided by the provisions of Section 1.05.B.
  - b. The BZA does not have the power to rezone property or to change the location of zoning district boundaries established by the Zoning Ordinance.
2. Hear and approve Special Exception for Errors in Location applications in accordance with Section 10.11.04.
3. Hear and decide all other matters referred to and upon which it is required to pass by the Zoning Ordinance.
4. Make, alter, and rescind rules and forms for its procedures, consistent with the ordinances of the County and the general laws of the Commonwealth.
5. Prescribe procedures for the conduct of its public hearings.

## E. Records. The BZA must keep a full public record of its proceedings. Such record must be filed with the Zoning Administrator.

- F. **Reports.** The BZA must submit a report of its activities to the Board of Supervisors, at intervals of not greater than 12 months, summarizing all appeals and applications made to it and its decisions thereon since its previous report. At the same time that each such report is filed with the Board, copies thereof must also be filed with the Zoning Administrator, the County Attorney, and the Planning Commission.
- G. **Limitations.** All provisions of the Zoning Ordinance relating to the BZA must be strictly construed. The BZA, as a body of limited jurisdiction, must act only in full conformity with all provisions and definitions in the Zoning Ordinance and in strict compliance with all limitations contained therein.
- H. **Decisions Subject to Judicial Review.** All decisions and findings of the BZA are final decisions and are, in all instances, subject to judicial review in accordance with Code of Virginia § 15.2-2314.

## 11.04 Historic District Review Committee

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**Purpose.** *The Historic District Review Committee (HDRC) administers the provisions of the Zoning Ordinance relating to Historic Overlay Districts and advise the Board of Supervisors in its efforts to preserve and protect historic places and areas in the County.*

- A. **Created.** The HDRC is created pursuant to Code of Virginia § 15.2-2306.
- B. **Membership.** The HDRC is composed of 5 or 7 voting members who must be residents, at least 3 of whom must be owners of real property, of the County, with a demonstrated knowledge of and interest in the preservation of historical and architectural landmarks.
  - 1. **Qualifications.** Members are appointed by the Board of Supervisors and should include the following:
    - a. An architect with experience dealing with historic [Structures](#);
    - b. An architectural historian;
    - c. An owner of property listed on either the state or national register of historic landmarks; or
    - d. Owners of property within an historic district established pursuant to Section [10.10.08](#) of the Zoning Ordinance.
  - 2. **Terms.** Members are appointed to serve a term of 3 years or until their successor has been appointed. Terms are staggered such that 2 members are appointed every year.
  - 3. **Vacancies.** An appointment to fill a vacancy is only for the unexpired portion of the term. Members may be reappointed to succeed themselves.
  - 4. **Officers.** A chair, vicechair, and any other officers of the HDRC will be elected by majority vote of the entire membership.
  - 5. **Removal.** The Board of Supervisors may remove any member for malfeasance in office.
- C. **Meetings.**
  - 1. **Regular Meetings.** Meetings of the HDRC are held on a regular basis as the work of the HDRC may require. Meetings are held at the time and place designated by the Chair.
  - 2. **Quorum.** A quorum of the members of the HDRC is required for consideration of any matter.
  - 3. **Voting.**
    - a. Any action of the HDRC requires the affirmative vote of a majority of the members present and voting.
    - b. Members must exempt themselves from participating in any action in which their financial interests or those of their immediate family are directly involved.
- D. **Powers and Duties.** The HDRC has the following powers:
  - 1. Hear and decide applications for Certificates of Appropriateness, and Appeals, pursuant to Section [10.12](#) and Section [10.14](#);

2. Adopt Historic Overlay District Guidelines for any Historic Overlay District in regard to the design criteria to be employed in assessing applications for Certificates of Appropriateness;
  3. Review and make recommendations on all applications for Site Plan, Subdivision, Variance, Zoning Map Amendment, Zoning Concept Plan Amendment, Special Exception, Minor Special Exception, or Zoning Modification in any Historic Overlay District;
  4. Review and make recommendations on the establishment of new Historic Overlay Districts, or any addition to, or removal from, any existing Historic Overlay District;
  5. Assist and advise the Board of Supervisors, the Planning Commission, and other County departments and agencies in matters involving historically significant sites, structures, and areas, such as land usage, parking facilities, and signage;
  6. Advise the Zoning Administrator in enforcement action for actions performed without HDRC approval;
  7. Advise owners of historic landmarks or Structures on issues of preservation;
  8. Make recommendations concerning the establishment of a system of markers for selected historic sites and structures, including proposals for the installation and care of such historic markers;
  9. Cooperate with and enlist assistance from local historical societies, 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, structures, sites, or areas of the County; and
  10. Make annual reports to the Board of Supervisors reviewing the activities of the previous year, and upon request, to disseminate these reports to other agencies within the State and nearby states which are responsible for historical preservation activities.
- E. **Records and Reports.**
1. The HDRC will keep records of all its proceedings.
  2. HDRC records will be made available upon request for public inspection.
  3. The HDRC will file, as soon as practicable, copies of its annual reports to the Board of Supervisors with the Zoning Administrator, the County Attorney, and the Planning Commission.