

Article 2 | Review and Decision-Making Bodies

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Sec. 2.1 Town Council

2.1.1 Powers and Duties

The Town Council shall have the following powers and duties under this Zoning Ordinance:

Zoning Ordinance Amendments. To initiate, consider and make final decisions upon proposed amendments to this Zoning Ordinance.

Zoning Map Amendments. To initiate, consider and make final decisions upon proposed amendments to the Official Zoning Map, including amendments to proffered conditions, and to hear and decide appeals of proffer interpretations made by the Zoning Administrator.

Special Exception Uses. To consider and make final decisions regarding special exception uses, as specified by this Zoning Ordinance.

Establish Fees. To establish fees, charges and other expenses imposed by this Zoning Ordinance.

Appoint Commissions and Boards. To appoint members of the Planning Commission, Board of Architectural Review and any other board or commission as now or as may be required by the Zoning Ordinance.

Enforce Zoning Ordinance. To take all actions necessary, including appropriate administrative and legal actions, to ensure the enforcement of these zoning regulations.

Application Submission Requirements. To adopt by resolution regulations specifying the information and materials required to be included for each application required under this Zoning Ordinance.

Sec. 2.2 Planning Commission

2.2.1 Purpose

The Planning Commission shall advise the Town Council on all matters relating to the orderly growth and development of the Town of Leesburg.

2.2.2 Establishment; Consistency with Town Code

The Planning Commission heretofore established pursuant to the provisions of Section 15.2-2210 of the Code of Virginia, 1950, as amended, shall continue as the Planning Commission and hold regular meetings in compliance with Chapter 13 of the Town Code of Leesburg.

2.2.3 Powers and Duties

In addition to those powers and duties established for the Planning Commission in Section 15.2-2210 and Section 15.2-2217 of the Code of Virginia, 1950, as amended, and Chapter 13 of the Town Code or as otherwise lawfully assigned, the Planning Commission shall have the following powers and duties:

Prepare Ordinance. To prepare and recommend amendments to the Zoning Ordinance.

Recommendations on Rezonings. To consider whether or not proposed Zoning Map amendments and proffered amendments are consistent with the overall goals and objectives of the *Town Plan*, and to make recommendations regarding all such amendments to the Town Council.

Review Comprehensive Plan. To review the Town comprehensive plan at least once every 5 years and recommend amendments

Recommendations on Special Exception Uses. To receive, hear and investigate applications for special exception uses under this Zoning Ordinance and, if the facts and conditions required by this Zoning Ordinance for the approval of such uses are found to be present, to recommend to the Town Council that the application be granted.

Conduct Public Hearings. To conduct such public hearings as may be required to gather information for the drafting, establishment and maintenance of the various components of the *Town Plan*, and such additional public hearings as are specified under the provisions of this Zoning Ordinance.

Commission Permits. To issue commission permits for streets, parks or other public areas, public building or public structure, public utility facility or public service corporation facility other than railroad facilities, whenever such public facility or area is not identified within the adopted

Town Plan, pursuant to the procedures of Section 15.2-2232 of the Code of Virginia, 1950, as amended.

Authority to Employ Staff and Consultants. Within the limits of funds generally appropriated for the performance of its duties, the Planning Commission may obtain the services of qualified persons to advise and assist the Planning Commission, and may obtain the equipment, supplies and other material necessary to its effective operation.

Authority to Request Information. The Planning Commission shall have the authority to request and receive information, cooperation, assistance, or studies from any town departments, boards, agencies or commissions.

Commentary

The Code of Virginia contains the following relevant provisions:

Section 15.2-2217 Officers, employees and consultants; expenditures; rules and records; special surveys

The local planning commission shall elect from the appointed members a chairman and a vice-chairman, whose terms shall be for one year. If authorized by the governing body the commission may (i) create and fill such other offices as it deems necessary; (ii) appoint such employees and staff as it deems necessary for its work; and (iii) contract with consultants for such services as it requires. The expenditures of the commission, exclusive of gifts or grants, shall be within the amounts appropriated for such purpose by the governing body.

The commission shall adopt rules for the transaction of business and shall keep a record of its transactions which shall be a public record. Upon request of the commission, the governing body or other public officials may, from time to time, for the purpose of special surveys under the direction of the commission, assign or detail to it any members of the staffs of county or municipal administrative departments, or such governing body or other public official may direct any such department employee to make for the commission special surveys or studies requested by the local commission.

See also Chapter 13 of the Town Code.

Other. To perform any other duties which may lawfully be assigned to it.

Sec. 2.3 Board of Architectural Review

2.3.1 Purpose

The purpose of the Board of Architectural Review shall be to administer the provisions of this Zoning Ordinance relating to Historic Districts and to advise the Town Council in its efforts to preserve and protect historic structures and sites within the town.

2.3.2 Authority and Establishment

The Board of Architectural Review heretofore established pursuant to the Section 15.2-2306 of the Code of Virginia, 1950, as amended, and as authorized in Section 7A-2 of the Town Charter shall continue as the Board of Architectural Review for the purposes of this Zoning Ordinance.

2.3.3 Members, Compositions and Terms

The Board of Architectural Review shall consist of the following:

Composition. Nine (9) members including seven (7) voting members and two (2) non-voting members. One non-voting member shall be a Town Council member appointed by the Town

Council and one non-voting member shall be a Planning Commission member appointed by the Planning Commission.

Terms. Appointment of voting members to serve on the Board of Architectural Review shall be as follows: In the year of an election, each newly elected or re-elected Council member, including the Mayor, may nominate one person to serve on the Board of Architectural Review. The Town Council shall vote to approve or disapprove the selection. The term of each Board member shall correspond to the official tenure of office of the Council member who nominated them. The term of the Town Council member and Planning Commission member shall correspond to their official tenure of office.

Reappointments. Members may be reappointed to serve consecutive terms.

Partial and Expired Terms. Members appointed as a result of resignation or removal of a member shall serve for the remaining term of the member they are replacing. A member whose term has expired shall continue to serve until a successor is appointed.

2.3.4 Required Qualifications

Qualified and acceptable candidates shall demonstrate an interest, competence, or knowledge in historic preservation, and a majority of the Board of Architectural Review members shall have professional training or equivalent experience in historic preservation, history, architectural history, archaeology, or planning. In addition, at least one member of the Board of Architectural Review shall be an architect who meets one or more of the following qualifications: 1) has received a professional degree in architecture from an accredited academic institution with at least two years of full-time experience in architecture, or 2) is currently licensed to practice architecture in Virginia or another state. All persons appointed to the Board of Architectural Review shall be bona fide residents of the Town of Leesburg and shall have a demonstrated interest in and knowledge of the history of the community with the following exception: one member of the Board may, at the discretion of the Town Council, be appointed to the Board as a non-resident property owner provided that said member owns at least a parcel of land in the H-1 Old and Historic Overlay District.

2.3.5 Election of Officers

The Board of Architectural Review shall elect its Chairman and Vice-Chairman from its membership, and the Director of Planning and Zoning or the Director's designee, shall be its recording secretary.

2.3.6 Procedure for Meeting

The Chairman shall conduct the meeting of the Board of Architectural Review. In the absence of the Chairman, the Vice-chairman shall preside. The recording secretary shall keep minutes of the meetings and a permanent record of all resolutions, motions, transactions and determinations. All members of the Board of Architectural Review shall be entitled to vote except the non-voting members appointed from the Planning Commission and the Town Council. Decisions of the Board of Architectural Review shall be determined by a majority vote of those members present and voting. A quorum of four voting members present is required before the Board of Architectural Review may take any official action.

2.3.7 Powers and Duties

The powers and duties of the Board of Architectural Review shall be as follows:

Decision Making Authority

- A. Exterior Alterations. Review and decide upon exterior alterations to all structures (including buildings, bridges, signs, fences, walls, and monuments) or sites within the boundaries established by this Zoning Ordinance.

- B. Demolition. Review and decide upon any proposed demolition within the boundaries of the H-1, H-2 Overlay Districts and Gateway Overlay Districts.
- C. New Construction. Review and decide upon all proposed new construction within the boundaries established by this Zoning Ordinance.
- D. Relocation. Review and decide upon any proposed relocation of a structure (including buildings, bridges, signs, fences, walls, and monuments) within the boundaries established by this Zoning Ordinance.
- E. Comprehensive Sign Plans. Review and approve comprehensive sign plans within the boundaries of the H-1 Overlay District as established by this Zoning Ordinance and in accordance with Sec.15.13 (Comprehensive Sign Plans).

Advisory Duties

- A. List. Establish and maintain a list of structures, sites and areas having a special historical, architectural or aesthetic interest or value.
- B. Recommend Designations. Make recommendations to the Town Council regarding the designation of individual sites for inclusion in the H-1 Overlay District, or establishment of a new district or landmark site.
- C. Buffer-yard Modifications. Review modifications of buffer-yards in the H-1 Overlay District, in accordance with Sec. 12.8.5 (Modification of Screening and Buffer-yard Requirements).

Annual Report

- A. Annual Report. Submit an annual report of its activities and decisions to the Town Council.

2.3.8 Rules of Procedure

In matters covering the procedure for meetings not covered by this article (e.g., schedules for regular periodic meetings); the Board of Architectural Review may establish its own rules, provided they are not contrary to the spirit of this section.

2.3.9 Record of Meetings

A record shall be kept of pertinent information presented at all public meetings and of all decisions by the Board of Architectural Review.

2.3.10 Authority to Request Information

In accordance with the powers, duties, and responsibilities imposed on the Board of Architectural Review by this Zoning Ordinance, the Board of Architectural Review shall have the power and authority to request and receive any appropriate information, cooperation, assistance, or studies from any town departments, board, agencies, or commissions.

Sec. 2.4 Board of Zoning Appeals

2.4.1 Purpose

The Board of Zoning Appeals shall perform those duties set forth in Article 7, Chapter 22, Title 15.2 of the Code of Virginia, 1950, as amended.

2.4.2 Establishment

The Board of Zoning Appeals heretofore established pursuant to the provisions of the Code of Virginia shall continue as the Board of Zoning Appeals for the purpose of this Zoning Ordinance.

2.4.3 Members, Compositions and Terms

The Board of Zoning Appeals shall consist of the following:

- Five (5) residents of the Town, appointed by the Circuit Court of Loudoun County.
- The term of office of each member shall be for five (5) years, with the term of one (1) member expiring each year.
- The Secretary of the Board of Zoning Appeals shall notify the court at least thirty (30) days in advance of the expiration of any term of office and shall also notify the court of any vacancy. Appointments to fill such vacancies shall be only for the unexpired portion of the term.
- Members may be reappointed to succeed themselves.
- A member whose term has expired shall continue to serve until a successor is appointed and qualifies.
- Members of the Board of Zoning Appeals shall hold no other public office in the Town, except that one (1) member may be a member of the Planning Commission.
- Any Board of Zoning Appeals member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause shown by the court that appointed him, after a hearing held no sooner than fifteen (15) days after notice to the member whose removal is sought.
- Any member of the Board of Zoning Appeals shall be disqualified to act on a matter before the Board of Zoning Appeals with respect to property pursuant to Section 2.1-636(11) of the Code of Virginia.

2.4.4 Officers

The Board of Zoning Appeals shall designate the following officers:

- **Chairman.** The Board of Zoning Appeals shall elect from its own membership a Chairman who shall serve an annual term and who may be elected to consecutive terms.
- **Vice-Chairman.** The Board of Zoning Appeals shall elect from its own membership a Vice-Chairman who shall serve an annual term and who may be elected to consecutive terms.
- **Secretary.** The Zoning Administrator or the Zoning Administrator's designee shall serve as secretary to the Board of Zoning Appeals and shall prepare minutes of meetings, keep all records and conduct official correspondence. A court stenographer may be employed to record such proceedings as the Board of Zoning Appeals may direct.

2.4.5 Meetings and Hearings

Meetings and hearings of the Board of Zoning Appeals shall be conducted in accordance with the following provisions:

- **Meetings and Hearings.** Meetings or hearings of the Board of Zoning Appeals shall be held at the call of the Chairman or Vice Chairman, or at the request of any two (2) members, provided that notice thereof has been mailed or delivered to each member of the Board of Zoning Appeals at least seven (7) days in advance of the meeting date,

or that a waiver of such notice is obtained from each member. All hearings of the Board of Zoning Appeals shall be open to the public.

- **Quorum Required.** A quorum shall be necessary for the transaction of any official business, the taking of any action or for the conduct of a hearing. No less than a majority of all members of the Board of Zoning Appeals shall constitute a quorum.
- **Witnesses.** The presiding Chairman may compel the attendance of witnesses and administer oaths. All witnesses and speakers presenting facts and evidence before the Board of Zoning Appeals, including the Zoning Administrator when a party, shall give oath or affirmation regarding the truth of their statements.
- **Conduct.** Persons appearing before the Board of Zoning Appeals shall abide by the order and direction of the Chairman or Vice Chairman. Discourteous or disorderly or contemptuous behavior shall be regarded as a breach of the privileges extended by the Board of Zoning Appeals and shall be dealt with as the Chairman deems proper.

2.4.6 Powers and Duties

The Board of Zoning Appeals shall have the following powers and duties:

- **Appeals of Administrative Decisions.** To hear and decide appeals as provided in Sec. 3.14.
- **Variations.** To authorize variations from the terms of this Zoning Ordinance upon application in specific cases as provided in Sec. 3.13.
- **Appeals of Zoning Map Interpretations.** To 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. After notice to the owners of the property about any such interpretation, and after a public hearing thereon, the Board of Zoning Appeals shall interpret the map in a manner that carries out the purpose and intent of this Zoning Ordinance and shall be guided by the provisions of Sec. 4.4. The Board of Zoning Appeals does not have the power to rezone property or to change the location of zoning district boundaries as established by this Zoning Ordinance.
- **Other Matters.** To hear and decide all other matters referred to and upon which it is required to act by this Zoning Ordinance.
- **Procedures.** To make, alter and rescind rules and forms for its procedures, consistent with the ordinances of the Town and the general laws of the State.
- **Public Hearing Conduct Procedures.** To proscribe procedures for the conduct of public hearings it is required to hold.

2.4.7 Records

The Board of Zoning Appeals shall keep written records and minutes of all its proceedings, showing evidence presented, findings of fact by the Board of Zoning Appeals, and the vote of each member upon each question. All such records shall be kept on file in the office of the Zoning Administrator.

2.4.8 Annual Report

The Board of Zoning Appeals shall prepare an annual report to the Town Council summarizing all appeals and applications made to it and summarizing its decisions on such appeals and applications. At the same time the report is filed with the Town Council, copies shall also be filed

with the Zoning Administrator, the Planning Commission, the Town Attorney and the Director of Planning and Zoning.

Sec. 2.5 Zoning Administrator

2.5.1 Powers and Duties

In accordance with Section 15.2-2286 of the Code of Virginia, 1950, as amended, the Zoning Administrator shall be responsible for the administration, interpretation and enforcement of the provisions of this Zoning Ordinance. The Zoning Administrator shall perform all required duties and act in accordance with the terms, purposes, intent and spirit of this Zoning Ordinance. The Zoning Administrator may be assisted in the enforcement of this Zoning Ordinance by the Loudoun County Health Officer, Chief of Police and all other officials of Leesburg, Virginia, pursuant to their respective fields. In addition to those responsibilities specifically prescribed elsewhere in this Zoning Ordinance, the Zoning Administrator shall have the following powers and duties:

- A. Receipt and Review of Applications.** To receive and/or review:
 - 1. Zoning Permit applications; Certificate of Occupancy applications;
 - 2. Variance applications;
 - 3. Notices of Appeal to the Board of Zoning Appeals;
 - 4. Landscape bonds; and
 - 5. All other applications, certifications or materials required by this Zoning Ordinance to be submitted to the Zoning Administrator.
- B. Zoning Permits.** To issue zoning permits upon demonstration by the applicant that a proposed use or structure complies with all applicable ordinance requirements, including applicable Town Code requirements.
- C. Sign Permits.** To issue a sign permit for all signs requiring such a permit, as provided in Article 15.
- D. Occupancy Permits.** To authorize the issuance of zoning clearance for Occupancy Permits upon demonstration by the applicant that a proposed use or structure complies with all applicable zoning ordinance and Town Code requirements.
- E. Interpretations.** To issue written interpretations of this Zoning Ordinance upon written request. Such interpretations shall be binding as to the applicant and as to the specific facts presented in the application for interpretation after completion of the thirty (30) day appeal period specified in the Code of Virginia, 1950, as amended. When any applicant requesting a written order, requirement, decision, or determination from the Zoning Administrator that is subject to appeal provisions contained in Sec. 3.14 or Sec. 3.15 is not the owner or agent of the owner of the real property subject to the written order, requirement, decision or determination, written notice shall be given to the owner of real property subject to the request by the party making the request within ten (10) calendar days of the request. Such written notice shall be sent by registered or certified mail to the owner of the subject property at the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records. Evidence of mailing written notice to the property owner shall be provided to the Zoning Administrator within twelve (12) calendar days of the request.
- F. Uses Not Specifically Listed.** Where a specific proposed use is not listed in the Zoning Ordinance, to issue an interpretation regarding whether the use is a permitted

use, special exception use, or prohibited use within various zoning districts. The Zoning Administrator shall be guided by the criteria set forth in Sec. 9.1.4.

- G. Maintain Zoning Ordinance.** To maintain a true and accurate copy of this Zoning Ordinance, including all amendments and interpretations and shall make the same available for public inspection.
- H. Maintain and Interpret the Official Zoning Map.** To interpret the Official Zoning Map as it relates to specific properties within the town. The Zoning Administrator shall also maintain the Official Zoning Map by indicating all rezonings and indicating proffered conditions associated with any such rezoning by an appropriate symbol, and shall make the same available for public inspection.
- I. Maintain Records.** To maintain permanent and current records required by this Zoning Ordinance, including but not limited to zoning permits and all official actions on administrative appeals, variances, special exceptions, conditionally permitted uses, ordinance amendments, rezonings, proffer amendments and other related land records. A separate index of proffered conditions shall also be maintained in accordance with Section 15.2-2300 of the Code of Virginia, 1950, as amended.
- J. Conduct Inspections.** To conduct appropriate and lawful inspections of properties, including buildings, structures, landscaping and uses of land to determine compliance with this Zoning Ordinance. When a violation is identified the Zoning Administrator shall notify in writing the person or persons responsible specifying the nature of the violation and ordering appropriate corrective action.
- K. Annual Report.** To prepare and submit an annual report to the Town Council regarding the administration of this Zoning Ordinance, setting forth such statistical data and information as may be of interest and value in advancing and furthering the purpose of this Zoning Ordinance.
- L. Enforce Zoning Ordinance.** To enforce the provisions of this Zoning Ordinance, the decisions of the Board of Zoning Appeals, and proffers and conditions approved by the Town Council.
- M. Other Duties.** To perform such other duties and responsibilities as authorized by the Town Manager and Director of Planning and Zoning in order to fulfill the purpose and intent of this Zoning Ordinance.

2.5.2 Response Time

The Zoning Administrator shall respond within ninety (90) days to all requests for decisions or determinations on matters within the scope of the Zoning Administrator's authority, unless the applicant or person making the request agrees to an extension of time.

Sec. 2.6 Land Development Official

2.6.1 Appointment

The Land Development Official shall be appointed by the Town Manager of the Town of Leesburg and shall be the Director of Planning and Zoning, the Director of Plan Review or other designee as designated by the Town Manager in the particular case.

2.6.2 Powers and Duties

The Land Development Official shall have the following powers and duties:

- **Transmit Applications.** To transmit all land development applications to the appropriate reviewing body and determine compliance with these ordinance requirements.
- **Waivers and Modifications.** To waive or modify various provisions of this Zoning Ordinance, as expressly specified in this Zoning Ordinance.
- **Other Duties.** To carry out other duties and responsibilities as authorized by the Town Manager to fulfill the purpose and intent of this Zoning Ordinance.