Chapter 84

ARTICLE XIV. – BOARDS; COMMISSION; COUNCIL

PART 1400. – **GENERAL**

**Sec. 84-1400.01 Conflict of interest.**

(a) Members of a commission, committee or board whose professional services are being used by an Applicant shall disqualify themselves from that application. Such disqualification shall prohibit all action by the Planning Commission or committee member including discussion, deliberation, voting, recommendation or participation as a commission or committee member.

(b) Members of a commission, committee or board who have a financial interest in the property in question or who is employed with a firm that has been hired to aid the Applicant in any matter whatsoever, or who has a proprietary, tenancy, or personal interest in any case to be considered by that Reviewing Body shall be disqualified from participating in the consideration of any request for a permit.

(c) The Town may possess few residents with experience in the individual fields of history, architecture, architectural history, archaeology, urban planning, law or real estate, and the Town does not want to impair such residents from practicing their trade for hire. In such cases the Town may, upon the request of the chairman or vice chairman of the Planning Commission, committee or board appoint a substitute member who is qualified in the same field as the disqualified member and who will serve for that particular case only. If no qualified resident of the Town is able to substitute for the disqualified member, the Town may appoint, in this case only, a qualified substitute who is a resident of Virginia but not a resident of Strasburg.

**PART 1401. - BOARD OF ZONING APPEALS**

Sec. 84-1401.01. - **Appointment; composition; compensation; removal; term; conflicts.**

(a) A Board of Zoning Appeals consisting of five members shall be appointed by the Circuit Court of Shenandoah County. The Board shall serve without pay other than for traveling expenses. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court which appointed him, after a hearing held after at least 15 days’ notice. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

(b) The members’ office shall serve five-year staggered terms. One of the five appointed members shall be an active member of the Planning Commission.

(c) Any member of the Board of Zoning Appeals shall be disqualified to act upon a matter before the Board with respect to property in which the member has an interest.

(d) The Board of Zoning Appeals shall choose annually its own chairman and vice-chairman, who shall act in the absence of the chairman.

(e) At the request of the Town Council, the Circuit Court may appoint not more than three alternates to the Board of Zoning Appeals. The qualifications, terms and compensation of alternate members shall be the same as those of regular members.

(f) A regular member when he knows he will be absent from or will have to abstain from any application at a meeting shall notify the Zoning Administrator at least 24 hours prior to the meeting of such fact.

 Sec. 84-1401.01. - **Responsibilities.**

The Board of Zoning Appeals shall have the following responsibilities:

(a) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of Code of Virginia, § 15.2-2280 et seq. or of this ordinance. The decision on such appeal shall be based on the Board's judgment of whether the administrative officer was correct. The Board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.

(b) To authorize upon appeal or original application in specific cases such variance as defined in this ordinance from the terms of this ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this ordinance shall be observed and substantial justice done.

(c) No variance shall be authorized unless the Board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this ordinance. In authorizing a variance the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

(d) To hear and decide appeals from the decision of the Zoning Administrator after notice and hearing as provided by Code of Virginia, § 15.2-2204.

(e) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by Code of Virginia, § 15.2-2204, the Board may interpret the map in such way as to carry out the intent and purpose of this ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first class mail rather than by registered or certified mail. The Board shall not have the power to change substantially the locations of district boundaries as established by this ordinance.

(f) No provision of this section shall be construed as granting the Board the power to rezone property or to base Board decisions on the merits of the purpose and intent of local ordinances duly adopted by the Town Council, consistent with the Code of Virginia, § 15.2-2309.

 Sec. 84-1401.03. - **Rules and regulations; meeting.**

(a) The Board of Zoning Appeals shall adopt such rules and regulations as it may consider necessary.

(b) The meeting of the Board of Zoning Appeals shall be held at the call of its chairman or at such times as a quorum of the Board may determine.

(c) The chairman, or in his absence, the vice chairman, may administer oaths and compel the attendance of witnesses.

(d) The Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

(e) All meetings of the Board of Zoning Appeals shall be open to the public.

(f) A quorum shall be at least three members.

(g) A favorable vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the Applicant on any matter upon which the Board is required to pass.

 Sec. 84-1401.04. – **Appeals to BOARD OF ZONING APPEALS.**

(a) An appeal to the Board may be taken by any person aggrieved or by any officer, department, Board or bureau of the Town affected by any decision of the Zoning Administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of Code of Virginia, § 15.2-2280 et seq. or this ordinance.

(b) Notwithstanding any Charter provision to the contrary, any written notice of a zoning violation or a written order of the Zoning Administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and un-appealable if not appealed within 30 days. The appeal period shall not commence until the statement is given. The appeal shall be taken within 30 days after the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

(d) In no event shall a written order, requirement, decision or determination made by the Zoning Administrator or other administrative officer be subject to change, modification or reversal by the Zoning Administrator or any other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the Zoning Administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the Zoning Administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the attorney for the Town Council, modification is required to correct clerical or other nondiscretionary errors.

(e) Notices for public hearings shall comply with Article XV of this ordinance

 Sec. 84-1401.05 – **Action on appeals.**

(a) In exercising its powers the Board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The 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 this ordinance or to effect any variance from this ordinance. The Board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the Board and shall be public records. The chairman of the Board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses, consistent with the Code of Virginia, § 15.2-2312.

(b) Certiorari to review decision of Board of Zoning Appeals is permitted consistent with the Code of Virginia, § 15.2-2314.

(1) Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any aggrieved taxpayer or any officer, department, Board or bureau of the Town, may present to the Circuit Court for the county a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office of the Board.

(2) The Board of Zoning Appeals shall not be required to return the original papers acted upon by, but it shall be sufficient to return certified or sworn copies thereof or of the portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(3) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a Commissioner to take evidence as it may direct and report the evidence to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(4) Costs shall not be allowed against the Board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from. In the event the decision of the Board is affirmed, and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the Board.

PART 1402. – **PLANNING COMMISSION**

 Sec. 84.1402.01. - **Appointment; composition; compensation; removal; term; conflicts**

(a) Pursuant to state law, a Planning Commission for the Town is hereby created.

(b) The Planning Commission shall be composed of seven members, who shall be appointed by the Town Council, all of whom shall be Town residents and qualified by knowledge and experience to make decisions on questions of community growth and development, provided that at least one-half of the members shall be owners of real property. One member of the Planning Commission may be a member of the Town Council, and one member may be a member of the administrative branch of Town government. The term of each of these two members shall be coextensive with the term of office to which he has been elected or appointed unless the Town Council, at the first regular meeting each year, appoints others to serve as their representatives. The remaining members of the Planning Commission shall serve for staggered terms of four years each.

(c) All members of the Planning Commission shall serve as such without compensation, unless the Town Council provides for compensation to the members for their services or reimbursement for actual expenses incurred or both, pursuant to the last paragraph of Code of Virginia, § 15.2-2212.

(d) Any member of the Planning Commission may be removed from office for malfeasance in office.

(e) Vacancies upon the Planning Commission, however caused, shall be filled by the Town Council for the unexpired term only.

(f) The Planning Commission shall elect from among its members its own chairman and vice-chairman and shall provide from time to time such rules and regulations, which are not inconsistent with this ordinance, for its own organization and procedure as it may deem proper.

 Sec. 84-1402.02 – **Responsibilities**

(a) The Planning Commission shall have the functions, powers and duties and shall be subject to the limitations which are prescribed by law.

(b) The Planning Commission shall make annual reports to the Town Council covering their investigations, transactions and recommendations; in addition, it shall make such other reports as it may deem proper, or as may be required by the Town Council.

(c) Make recommendations for the Comprehensive Plan and Capital Improvement Plan (CIP) for future development, including recommendations relative to the location, length, width, and arrangements of the streets, alleys, bridges, viaducts, parks, parkways, playgrounds, boulevards, or other public grounds or improvements, the platting of public property into lots, plots, streets or alleys, transportation, the grouping of public buildings, the design and placing of memorials, works of art, power or lighting plants, street lighting standards, telephone poles, street name signs, billboards and projecting signs.

(d) Make recommendations in connection with the execution and interpretation of the Comprehensive Plan and make such changes and adjustments in the plan as may be deemed desirable from time to time.

(e) Make recommendations upon any matter relating to zoning regulations which may be referred to it by the Town Council and assume such other related duties and responsibilities as may be delegated to it by the Town Council.

(f) Recommend to the Town Council rules controlling the subdivision of land.

(g) Make recommendations to the Town Council regarding the approval or disapproval of Special Use Permits, Rezonings, Planned Development, conditional zoning and proffers.

(h) Recommend legislation which may be desirable to further the purpose of Town planning.

(i) Make recommendations to the Zoning Administrator upon review of site and subdivision plans.

(j) In addition to all other powers and duties provided by the provisions of this ordinance, the Planning Commission shall have such other powers and/or duties as may be provided by the Town Council.

 Sec. 84-1402.03. - **Rules and regulations; meeting**

(a) The Planning Commission shall adopt such rules and regulations as it may consider necessary.

(b) The meeting of the Planning Commission shall be held monthly and at the call of its chairman or at a written request of two members at such times as a quorum of the Planning Commission may determine.

(c) The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

(d) The Planning Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Planning Commission and shall be a public record.

(e) All meetings of the Planning Commission shall be open to the public.

PART 1403. - **ARCHITECTURAL REVIEW BOARD**

Sec. 84-1403.01. - **Creation**

To preserve and protect historic places and areas in the historic districts through the control of demolition and relocation of such places and through the regulation of architectural design and uses of buildings, structures, sites and objects in such areas, there is hereby created a board to be known as the Architectural Review Board to be composed of five voting members. The members of the Architectural Review Board shall be appointed by the majority vote of the Town Council.

Sec. 84-1403.02. - **Responsibilities**

In accomplishing the objectives of this ordinance, the Architectural Review Board shall serve to:

1. Administer the provisions of this ordinance.
2. Preserve and protect buildings and structures within the defined Historic Districts through the review and regulatory processes stated in this ordinance and provided by Code of Virginia,§ 15.2-2306, as amended.
3. Review and approve or deny all applications for certificates of appropriateness in the historic districts. Decisions of the Board are binding upon Applicants, unless and until said decisions are overturned on appeal.
4. Create, and review annually, the Strasburg Historic District Design Guidelines. The Architectural Review Board shall create and review on an annual basis a set of design guidelines which shall apply to all existing and proposed buildings and structures covered by the scope of this ordinance. The guidelines shall be recommended by the Architectural Review Board and adopted by resolution of the Town Council. Subsequent modifications to the guidelines shall also be approved by the Town Council. It is the further intention that these guidelines be provided to the public to offer good practice recommendations and advice for the treatment of all of Strasburg's old and historic buildings.
5. Create and maintain a portfolio of historic interest for each property within the historic districts designated by the Strasburg Town Council. This portfolio will be modeled from the template provided by the Virginia Department of Historic Resources, and made available to the public in an electronic format.
6. Be informed of and share with property owners all available local, state, and national credits and renovation aids.
7. Provide advice on historic preservation issues as requested by the Town Council or staff.
8. Recommend areas for designation as Historic Districts or landmarks, and additions or deletions to districts.
9. Disseminate information within the locality on historic preservation issues and concerns, and receive and act on public comment.
10. Advise owners of historic properties on issues of preservation, as requested.
11. Seek out funds to forward the purposes of this ordinance, and to make recommendations to the Town Council regarding the use of the funds.
12. Review and make recommendations regarding historic preservation on applications for rezoning, special use permit, site development, subdivision, and variance in and around the historic districts, as requested by the Town staff or Council.
13. Carry out other duties as requested by the Town Council.

Sec. 84-1403.03. - **Authority**

The Architectural Review Board shall have the authority to:

1. Obtain the services of qualified consultants to advise and assist it within the limits of available appropriations.
2. Request and receive any appropriate information, cooperation, assistance, or studies from other Town agencies, subject to the approval of the Town Manager.

Sec. 84-1403.04. - **Terms**

Architectural Review Board members shall be appointed for four-year terms with a right of reappointment at the pleasure of the Town Council. Vacancies on the Board shall be filled within 60 days in the same manner as members are appointed.

Sec. 84-1403.05. - **Removal**

Any member of the Architectural Review Board may be removed from office by majority vote of the Town Council for neglect of duty or malfeasance. All members are expected to attend scheduled meetings on a regular basis. Failure to attend a minimum of 50% of all scheduled meetings over a six-month period, not including absences excused by the Board Chair, shall constitute a resignation that shall be acted upon by a majority vote of the Town Council.

Sec. 84-1403.06. - **Qualifications**

All members of the Architectural Review Board shall be Town residents and shall have a demonstrated interest, competence, or knowledge in historic preservation. One member may be selected from the membership of the Planning Commission. The members shall include a minimum of one person qualified in architecture or architectural history. Should no qualified Strasburg resident be available to serve in this capacity, applications from outside the Town shall be accepted to fill this post. At least one person shall hold a demonstrated knowledge of Strasburg's historic homes and neighborhoods.

Sec. 84-1403.07. - **Officers**

The Architectural Review Board shall elect from its membership a chairman and vice-chairman who shall serve annual terms and may succeed themselves; however, a rotation of officers is encouraged. The Zoning Administrator and Clerk of Council shall serve as administrative staff to the Architectural Review Board and maintain all records, minutes, and files relating to the Architectural Review Board meeting.

Sec. 84-1403.08. - **Meeting Procedure**

The chairman shall conduct the meetings of the Architectural Review Board. In the absence of the chairman, the vice-chairman shall preside. Minutes of the meetings and permanent records of all resolutions, transactions, and determinations shall be kept, and shall be made available to the Town Council. All members of the Architectural Review Board shall be entitled to vote, and the decisions of the Architectural Review Board shall be determined by a majority of those members present and voting. A quorum is defined as a majority of the appointed membership.

Sec. 84-1403.09. - **Rules of Procedure**

In matters covering procedures not included in this Ordinance, the Board will establish its own by-laws, subject to legal review and approval by the Town Council.

Sec. 84-1403.10. - **Public Meetings**

The Architectural Review Board shall have regularly scheduled monthly meetings. The chairman or the vice-chairman, in the chairman's absence, may call special meetings, as may be necessary, after notifying the Zoning Administrator. Meetings of the Architectural Review Board shall be publicly announced, in accordance with any legal requirement, and shall be open to the public.

Sec. 84-1403.11. - **Annual Report by Board**

The Architectural Review Board shall submit an annual report of its activities for review by the Town Council at their regular meeting each January.

 PART 1404. – **TOWN COUNCIL**

Sec. 84-1404.01. - **Responsibilities**

(a) Appoint members to the Planning Commission, Board of Zoning Appeals, Architectural Review Board, and any other committee, commission or board as the Town Council determine.

(b) Decide all development review recommendations and requests pursuant to the Administrative Procedures Manual;

(c) Adopt fees and authorize waivers to fees;

(d) Decide applications for waivers from public improvement requirements;

(e) Decide requests for closing or abandoning streets and easements; and

(f) Other responsibilities assigned by the Administrative Procedures Manual, the Town Charter, other sections of the Town Code, or Virginia Law.