

M E M O R A N D U M

TO: CHAIR, VICE CHAIR, AND MEMBERS OF THE PLANNING COMMISSION

FROM: JOANNA C. ANDERSON
ASSISTANT CITY ATTORNEY

KARL MORITZ
DIRECTOR, PLANNING AND ZONING

KENDRA JACOBS
SUPERVISORY PROGRAM ANALYST

DATE: SEPTEMBER 25, 2015

SUBJECT: PROPOSED AMENDMENTS TO THE PLANNING COMMISSION BY-LAWS

At the Planning Commission Retreat last May, Vice Chair Stew Dunn proposed potential changes to the Planning Commission By-Laws that would update the By-Laws to reflect the Planning Commission's current practice. The Planning Commission then directed staff to bring the proposed changes to the Planning Commission for its consideration.

BACKGROUND:

The authorization for the formation of the Alexandria Planning Commission comes from Chapter 9 of the City Charter. See Chapter 9 of the Charter attached for your information and review. In addition to the authorization for the substantive matters that come before the Planning commission, the Charter includes organizational authorization including composition of the planning commission in Section 9.02 and organization and expenditures of the planning commission in Section 9.03. Accordingly, Sections 11-1500 and 11-1600 of the Zoning Ordinance adopt the rules governing the Planning Commission as authorized by the City Charter Section. See Zoning Ordinance Sections 11-1500 and 11-1600 attached for your information and review.

Both the City Charter and the Zoning Ordinance require that the Planning Commission adopt "rules for the transaction of its business" (Charter Section 9.03 and Zoning Ordinance Section 11-1503(A)) The Planning Commission By-Laws are the rules for the transaction of the Planning Commission's business.

The By-Laws must comply with the authorizations laid out in the Charter and the Zoning Ordinance for the Planning Commission, however may be more specific than the Charter and the Zoning Ordinance as to how to conduct its business. Additionally,

Roberts Rules of Order governs the Planning Commission's parliamentary procedure, unless the Charter, Zoning Ordinance or the Planning Commission By-Laws amend the procedure.

The last time the Planning Commission By-Laws were amended was January 4, 1994. Since then, certain Planning Commission practices have evolved and should be reflected in the By-Laws.

PROPOSED CHANGES:

The main purpose of the proposed changes is to update the By-Laws to reflect the current practices of the Planning Commission. Additionally, language has been added to certain sections to clarify practices that have created confusion in the past.

The changes proposed to update the By-Laws include matters such as changes to the label of Chair and Vice Chair, update of the Department name, and update of the time of the meetings. The changes proposed to clarify practices include matters such as clarifying the role of the Vice Chair when stepping in for the Chair, clarifying the effect of tie votes, and providing more flexibility regarding the order of business. Other changes to clarify language are also proposed as shown in the attached blackline.

CONCLUSION

Staff recommends updating the Planning Commission By Laws to reflect the Planning Commission's current practices and procedures.

Attachments:

Attachment A: City Charter Chapter 9

Attachment B: Zoning Ordinance Sections 11-1500 and 11-1600

Attachment C: Blackline showing proposed changes to the By-Laws

CHAPTER 9 - Planning, Zoning, and Subdivision Control

Sec. 9.01 - Power to adopt master plan.

In addition to the powers granted elsewhere in this charter, the council shall have the power to adopt by ordinance a master plan for the physical development of the city to promote health, safety, morals, comfort, prosperity and general welfare. The master plan may include but shall not be limited to the following:

- (a) the general location, character and extent of all streets, highways, super-highways, freeways, avenues, boulevards, roads, lanes, alleys, walks, walkways, parks, parkways, squares, playfields, playgrounds, recreational facilities, stadia, arenas, swimming pools, waterways, harbors, waterfronts, landings, wharves, docks terminals, canals, airports and other public places or ways and the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension thereof.
- (b) the general location, character and extent of all public buildings, schools and other public property and of utilities whether publicly or privately owned, off-street parking facilities, and the removal, relocation, vacating, abandonment, change of use, alteration or extension thereof.
- (c) the general location, character and extent of slum clearance housing and neighborhood rehabilitation projects, including the demolition, repair or vacation of substandard, unsafe or unsanitary buildings.
- (d) a general plan for the control and routing of railways, streetcar lines, bus lines and all other vehicular traffic.
- (e) the general character, location and extent of all roads, streets, highways, super-highways, freeways, boulevards, parks, parkways and public buildings and public facilities and of such other general features as may affect the health, welfare, safety and prosperity of the city.

Before the council considers an ordinance proposing the adoption of a new master plan or an amendment of an existing master plan, it shall first conduct a public hearing proceeded by notice as provided in subsection G of Section 9.12. (Acts 1968, ch. 510, § 1; Acts 1970, ch. 492; Acts 1971, Ex. Sess., ch. 166, § 1; Acts 1982, ch. 480, § 1; Acts 1988, ch. 157; Acts 1995, ch. 782, § 1)

Sec. 9.02 - The city planning commission; composition.

There shall be a city planning commission which shall consist of seven members, who shall be qualified resident voters of the city who hold no office of profit under the city government, appointed by the council for terms of four years.

The city manager shall designate an officer or employee to sit with the commission with the right to discuss and advise but without the right to vote. Vacancies shall be filled by the council for the unexpired portion of the term. Members of the city planning commission shall serve as such without compensation, but may receive reimbursement for travel and expenses incurred by attendance at conventions, meetings, and such other travel as they may perform in the interest of

the City of Alexandria in the performance of the duties and activities of the planning commission. (Acts 1958, ch. 105, § 1; Acts 1958, ch. 132, § 1; Acts 1982, ch. 480, § 1; Acts 1992, ch. 512, § 1)

Sec. 9.03 - City planning commission; organization and expenditures.

The commission shall elect a chairman and vice chairman from among the citizen members appointed by the council, for a term of one year, who shall be eligible for reelection, and appoint a secretary. The commission shall hold at least one regular meeting in each month, shall adopt rules for the transaction of its business, and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. The city manager may appoint such employees as he may deem necessary for the work of the commission and may enter into contracts for and on behalf of the commission or permit it to contract directly with city planners, engineers, architects and other consultants for service it may require. All expenditures, exclusive of gifts to the commission, shall not exceed the sums appropriated by the city council therefor. (Acts 1956, ch. 262, § 1; Acts 1982, ch. 480, § 1)

Sec. 9.04 - Duty to adopt master plan.

It shall be the duty of the commission to make and adopt a master plan which with accompanying maps, plats, charts, and descriptive matter shall show the commission's recommendations for the development of the territory covered by the plan.

Sec. 9.05 - Adoption of master plan by commission.

The commission may adopt the plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan, said parts corresponding to major geographical sections or geographical or topographical division of the city or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto, and from time to time at intervals not exceeding five years prepare and submit to the council such changes in or revisions of said plan as changing conditions may make necessary. The adoption of the plan or any such part, amendment, extension or addition shall be by resolution of the commission carried by the affirmative vote of not less than a majority of the entire membership of the commission. The resolution shall refer expressly to the maps and descriptive matter and other matter intended by the commission to form the whole or part of the plan adopted, which resolution shall be signed by the chairman of the commission and attested by its secretary. An attested copy of the resolution, accompanied by a copy of so much of the plan in whole or in part as was adopted thereby, and each amendment, alteration, extension or addition thereto adopted thereby shall be certified to the council.

Sec. 9.06 - Effect of adoption of master plan.

Whenever the commission shall have adopted a master plan for the city or one or more parts thereof, geographical, topographical or functional, and the master plan of such part or parts thereof shall have been approved by the council and it has been certified by the council to the clerk of the corporation court and filed by him with the court records, then and thereafter no street, square, park or other public way, ground, open space, public building or structure, shall be construed or authorized in the city or in the planned section or division thereof until and unless the general location, character and extent thereof has been submitted to and approved by the

commission. No widening, extension, narrowing, enlargement, vacation or change in the use of streets and other public ways, grounds and places within the city, nor the sale of any land held by the city, shall be authorized to take place unless such transactions shall have been first submitted to and approved by the commission; and no public utility, whether publicly or privately owned, shall be constructed or authorized in the city or in the planned section or division thereof until and unless its general location, but not its character and extent, has been submitted to and approved by the commission; and no ordinance giving effect to, or amending the comprehensive zoning plan as provided in section 9.09 of this chapter shall be adopted until such application on motion for such change has been submitted to and approved by the commission. In case of disapproval in any of the instances enumerated above the commission shall communicate its reasons to the council which shall not have the power to overrule such action except by a recorded affirmative vote of three-fourths of the members of the council, except as otherwise provided in section 9.12 of this chapter. The failure of the commission to act within sixty days from the date of the official submission to it shall be deemed approval. The foregoing provisions of this section shall not be deemed to apply to the pavement, repavement, reconstruction, improvement, underground pipes and conduits, drainage, or other work in or upon any existing street or other existing public way. (Acts 1956, ch. 262, § 1; Acts 1962, ch. 61, § 1)

Sec. 9.07 - Repealed by Acts 1956, ch. 262, § 2.

Sec. 9.07.1 - Amendment of master plan initiated by council.

Amendment of the master plan may be initiated by a majority vote of the city council to submit a proposed amendment to the planning commission. Notwithstanding any provision in this charter or the general law to the contrary, if the planning commission disapproves the proposed amendment, the council shall have the power to overrule such action and adopt the amendment by an affirmative vote of not less than six members. The failure of the planning commission to act within sixty days from the date of the official submission to it shall be deemed approval; however, the council may extend such sixty-day period for an additional period not to exceed sixty days upon a recorded vote of the majority of all the members of council that good cause exists for such extension. The authority of the council under this section shall be concurrent with the authority of the planning commission to initiate a master plan amendment on its own motion. (Acts 1994, bill no. 22, § 1)

Sec. 9.08 - Further powers and duties of the commission.

The commission shall have the power to promote public interest in and understanding of the plan and to that end may publish and distribute copies of the plan or any report relating thereto, and may employ such other means of publicity and education as it may determine. All public officials shall upon request furnish to the commission within a reasonable time such available information as it may require for its work. The commission, its members, officers and employees in the performance of their duties may enter upon any land in the city and make examinations and surveys and place and maintain necessary monuments and markers thereon. In general, the commission shall have such powers as may be necessary to enable it to fulfill its function, promote planning and carry out the purposes of this charter. The commission shall make an annual report to the council concerning its activities.

Sec. 9.09 - Zoning powers.

In addition to the powers granted elsewhere in this charter, the council shall have the power to adopt by ordinance a comprehensive zoning plan designed to lessen congestion in streets, secure safety from fire, panic and other danger, promote health, sanitation and general welfare, provide adequate light and air, prevent the overcrowding of land, avoid undue concentration of population, facilitate public and private transportation and the supplying of public utility services and sewage disposal, preserve existing and facilitate the provision of new housing that is affordable to all segments of the community, and facilitate provision for schools, parks, playgrounds and other public improvements and requirements. The comprehensive zoning plan shall include the division of the city into zones with such boundaries as the council deems necessary to carry out the purposes of this charter and shall provide for the regulation and restriction of the use of land, buildings and structures in the respective zones and may include but shall not be limited to the following:

- (a) It may permit specified uses of land, buildings and structures in the zones and prohibit all other uses.
- (b) It may restrict the height, area and bulk of buildings and structures in the zones.
- (c) It may establish setback building lines and prescribe the area of land that may be used as front, rear and side yards and courts and open spaces.
- (d) It may restrict the portion of the area of lots that may be occupied by buildings and structures.
- (e) It may prescribe the area of lots and the space in buildings that may be occupied by families.
- (f) It may require that spaces and facilities deemed adequate by the council shall be provided on lots for parking vehicles in conjunction with permitted uses of land and that spaces and facilities deemed adequate by the council shall be provided on lots for off-street loading or unloading of vehicles.
- (g) It may provide that land, buildings and structures and the uses thereof which do not conform to the regulations and restrictions prescribed for the zone in which they are situated may be continued so long as the then existing or more restricted use continues and so long as the buildings or structures are maintained in their structural condition; and may require that such buildings or structures and the use thereof shall conform to the regulations and restrictions prescribed for the zone or zones in which they are situated whenever they are enlarged, extended, reconstructed or structurally altered; and may require that such buildings or structures and the use thereof shall conform to the regulations and restrictions prescribed for the zone or zones in which they are situated, in any event within a reasonable period of time to be specified in the ordinance.
- (h) It may require that permits be granted for special uses of property within a zone.
- (i) It may, in order to promote the general welfare through the preservation and protection of historic places and any other buildings or structures within the city having an important historic, architectural or cultural interest and other areas of historic interest in the city and through the preservation of the memorial character of the George Washington Memorial Highway, provide for old and historic districts or designated preservation districts in which no building or structure shall be erected, reconstructed, altered, restored, moved, removed, capsulated or razed until approved by a board of architectural review and in which, notwithstanding any contrary provision of general law, no building or structure shall be

allowed to deteriorate so that the building or structure or any exterior architectural feature thereof shall be lost or threatened with loss.

- (j) It may create boards of architectural review which shall have the power to pass upon the appropriateness of exterior architectural features, including signs, of buildings and structures to be erected, reconstructed, altered or restored in any old and historic districts or in designated preservation districts established in the city and prohibit the moving, removing, capsulation, demolition or razing of any building in such a district without a permit if any such building is of such historic, architectural or cultural interest that its removal would be to the detriment of the public interest.

In addition to the provisions of section 2.06 of this charter, the council may adopt an ordinance which establishes a civil penalty for the moving, removing, capsulation, demolition or razing of a building or structure which is located in an old and historic or a designated preservation district without the prior approval from either the board of architectural review or the council. The civil penalty established for a violation of any such ordinance shall not exceed the market value of the property as determined by the assessed value of the property at the time of the violation, and that market value shall include the value of any improvements together with the value of the land upon which any such improvements are located. Such ordinances may be enforced by the city attorney by bringing an action in the name of the city in the circuit court. Such actions shall be brought against the party or parties deemed responsible for the violation. It shall be the burden of the city in any such action to show the liability of the violator by a preponderance of the evidence.

The council shall establish standards, rules, regulations and procedures for the operation of any such boards of architectural review, and, to carry out the purposes and provisions of subsection (i) above and of this subsection (j), it shall provide for appeals to the city council from any final decision of a board, which appeal shall stay a board's decision pending the outcome of the appeal before the council. The council, on appeal, shall apply the same standards as those established for such boards and may affirm, reverse or modify the decision of such boards, in whole or in part. The city council shall determine, by ordinance, the parties entitled to appeal decisions of the city council; such parties shall have the right to appeal to the circuit court of the city for review by filing a petition, at law, setting the alleged illegality of the city council's action, provided such petition is filed within thirty days after the final decision is rendered by the city council. The filing of the said petition shall stay the council's decision pending the outcome of the appeal to the court. Findings of fact by the council shall be conclusive on the court in any such appeal. The court may reverse or modify the decision of the council, in whole or in part, if it finds upon review that the decision of the council is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of council.

In addition to the right of appeal hereinabove set forth, the owner of a building or structure, the moving, removal, capsulation, the razing or demolition of which is subject to the provisions of subsection (i) above and of this subsection (j), shall, as a matter of right, be entitled to move, remove, capsulate, raze or demolish such building or structure provided that: (1) he has applied to the board for such right and has also been a party to an appeal from the board's decision to the council, (2) that the owner has for the period of time set forth in the time schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell such building or structure, and the land pertaining thereto, to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable

assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto, and (3) that no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of the council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to in this paragraph. No offer to sell shall begin more than one year after a final decision by the city council. The time schedule for offers to sell shall be as follows: three months when the offering price is less than \$25,000; four months when the offering price is \$25,000 or more but less than \$40,000; five months when the offering price is \$40,000 or more but less than \$55,000; six months when the offering price is \$55,000 or more but less than \$75,000; seven months when the offering price is \$75,000 or more but less than \$90,000; and twelve months when the offering price is \$90,000 or more.

(j-01) It may, in order to promote the general welfare through the preservation and protection of properties in the city which are located outside of any old and historic or designated preservation district but which are over 100 years old and are of historic, architectural or cultural interest, provide by ordinance for the listing of such buildings and structures for preservation which shall not be moved, removed, demolished, razed, capsulated, reconstructed, altered or restored until approved by the board of architectural review except as hereinafter indicated and which, notwithstanding any contrary provision of general law, shall not be allowed to deteriorate so that the building or structure or any exterior architectural feature thereof shall be lost or threatened with loss.

Boards of architectural review shall have the power to prohibit moving, removal, capsulation, razing, reconstruction, alteration or restoration of any building or structure so listed that is over 100 years old and is of such historical, architectural or cultural interest that its removal would be to the detriment of the public interest.

In addition to the provisions of section 2.06 of this charter, the council may adopt an ordinance which establishes a civil penalty for the moving, removing, capsulation, demolition or razing of a building or structure which has been designated by the council as an historic building or structure or landmark without the prior approval from either the board of architectural review or the council. The civil penalty imposed for a violation of any such ordinance shall not exceed the market value of the property as determined by the assessed value of the property at the time of the violation, and that market value shall include the value of any improvements together with the value of the land upon which any such improvements are located. Such ordinances may be enforced by the city attorney by bringing an action in the name of the city in the circuit court. Such actions shall be brought against the party or parties deemed responsible for the violation. It shall be the burden of the city in any such action to show the liability of the violator by a preponderance of the evidence.

The council shall establish standards, rules, regulations and procedures for the operation of such board to carry out the purposes and provisions of this subsection (j-01); it shall provide for appeals to the city council from any final decision of any board, which appeal shall stay the board's decision pending the outcome of the appeal before the council. The council, on appeal, shall apply the same standards as those established for the board and may affirm, reverse or modify the decision of a board, in whole or in part. The city council shall determine, by

ordinance, the parties entitled to appeal decisions of the city council; such parties shall have the right to appeal to the circuit court of the city for review by filing a petition, at law, setting forth the alleged illegality of the city council's action, provided such petition is filed within thirty days after the final decision is rendered by the city council. The filing of the said petition shall stay the council's decision pending the outcome of the appeal to the court. Findings of fact by the council shall be conclusive on the court in any such appeal. The court may reverse or modify the decision of the council, in whole or in part, if it finds upon review that the decision of the council is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of council. In addition to the right of appeal hereinabove set forth, the owner of a building or structure, the moving, removal, capsulation, razing or demolition of which is subject to the provisions of this subsection (j-01), shall, as a matter of right, be entitled to move, remove, capsulate, raze or demolish such building or structure provided that: (1) he has applied to a board for such right and has also been a party to an appeal from a board's decision to the council, (2) that the owner has for the period of time set forth in the time schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell such building or structure, and the land pertaining thereto, to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of the council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to in this paragraph. No offer to sell shall begin more than one year after a final decision by the city council. The time schedule for offers to sell shall be as follows: three months when the offering price is less than \$25,000; four months when the offering price is \$25,000 or more but less than \$40,000; five months when the offering price is \$40,000 or more but less than \$55,000; six months when the offering price is \$55,000 or more but less than \$75,000; seven months when the offering price is \$75,000 or more but less than \$90,000; and twelve months when the offering price is \$90,000 or more.

(j-1) To acquire, in the manner provided in Chapter 13 of this charter, areas, properties, lands or any estate or interest therein, of old and historic interest which, in the opinion of the council, should be acquired, preserved and maintained for the use, observation, education, pleasure and welfare of the people, provide for their renovation, preservation, maintenance, management and control as places of old and historic interest by a department of the city government or by a board, commission or agency specially established by ordinance for the purpose; charge or authorize the charging of compensation for the use thereof or admission thereto; lease, subject to such regulations as may be established by ordinance, any such area, property, lands or estate or interest therein so acquired upon the condition that the old and historic character of the area, property or lands shall be preserved and maintained; or to enter into contracts with any person, firm or corporation for the management, preservation, maintenance or operation of any such area, property, lands or estate or interest therein so acquired as a place of old and historic interest, provided, the city shall not use the right of condemnation under this paragraph unless the historic value of such area, property, lands or estate or interest therein is about to be destroyed.

(k) To restrict, and regulate the erection of buildings and structures in areas subject to floods. (Acts 1956, ch. 262, § 1; Acts 1964, ch. 288; Acts 1966, ch. 12, § 1; Acts 1966, ch. 83, § 1;

Acts 1975, ch. 511, § 1; Acts 1976, ch. 669; Acts 1982, ch. 480, § 1; Acts 1983, ch. 314, § 1; Acts 1986, ch. 459, § 1; Acts 1989, ch. 536, § 1; Acts 1992, ch. 512, § 1)

Sec. 9.10 - Consideration to be observed in adoption and alteration of regulations.

The regulations and restrictions shall be enacted with reasonable consideration, among other things, of the character of each zone and its peculiar suitability for particular uses, and with a view of conserving the value of land, buildings, and structures and encouraging the most appropriate use thereof throughout the city. (Acts 1960, ch. 8, § 1; Acts 1966, ch. 12, § 1; Acts 1966, ch. 83, § 1; Acts 1992 ch. 512, § 1)

Sec. 9.11 - Duties of the city planning commission with relation to zoning.

It shall be the duty of the city planning commission to prepare and submit to the council a comprehensive zoning plan as referred to in section 9.09 of this chapter and from time to time, at intervals not exceeding two years, prepare and submit such changes in or revisions of the said plan as changing conditions may make necessary. The provisions of sections 9.06 and 9.13 shall apply to zone boundary changes adopted under section 9.10; provided, however, that said sections 9.06 and 9.13 shall not apply to city-owned property. (Acts 1960, ch. 8, § 1; Acts 1962, ch. 61, § 1; Acts 1964, ch. 288; Acts 1982, ch. 480, § 1)

Sec. 9.12 - Adoption and amendment of regulations and restrictions and determination of zone boundaries.

- A. Subject to the other provisions of this chapter, the council shall have power by ordinance to adopt the regulations and restrictions herein before described and determine the boundaries of the zones in which they shall apply, provide for their enforcement, and from time to time amend, supplement or repeal the same. The council shall also have authority to provide for the collection of fees to cover costs involved in the consideration of any application for amendment of any such determination of boundaries, to be paid to the Director of Finance by the applicant upon filing such request. No ordinance to adopt the regulations and restrictions herein before described or to determine the boundaries of zones or to provide for their enforcement, and no ordinance to amend, supplement or repeal the same shall be enacted until the application or motion for such change has been considered by the city planning commission and until after a public hearing in relation thereto has been held by the commission. The commission may recommend approval or disapproval of the matter by the city council, or the commission may request that the council refer the matter back to the commission for further study. The commission shall vote on the application or motion at the public hearing; provided, that the commission may defer a vote for a period not to exceed 90 days upon a recorded vote of a majority of the members of the commission that good cause exists for such deferral.
- B. A public hearing on the application or motion shall be held by the council, at which time the parties in interest shall have an opportunity to be heard. Council may, by ordinance, provide for the consideration of applications or motions or both by the commission or council only at specified intervals of time, not exceeding ninety 90 days. The council may approve or disapprove recommendations of the planning commission on the matter, subject to the provisions of § 9.06 of this charter. It may also refer back the matter to the commission for further study.

- C. The commission shall act on any matter referred back from the council for further study within 25 calendar days of the date of the council referral and shall resubmit its reviewed recommendations to council. Such commission action shall follow a public hearing on the matter which shall be preceded by at least 10 days' notice thereof published in a newspaper of general circulation in the city. If two-thirds of the entire membership of the commission votes to recommend disapproval of any matter referred back to the commission by the council for further study, such recommendation may be overruled only by a recorded affirmative vote of three-fourths of all the members of the council. If the commission fails to act on such a referral back within 25 days of the date of the council referral or fails to recommend disapproval of the matter referred back or by a two-thirds vote of its entire membership, the council may adopt said application or motion for change by a simple majority. An additional public hearing shall be held by the council, preceded by at least 10 days' notice thereof published in a newspaper of general circulation in the city, on any matter referred by council to the planning commission for further study 45 days from the date on which the matter was referred back to the planning commission by the council; provided, that the council may extend such 45-day period for an additional period not to exceed 45 days upon a recorded vote of the majority of all the members of council that good cause exists for such extension.
- D. Should the council approve the application or motion, 75 days may be taken to follow the proper procedure for the passage of an ordinance implementing the approval.
- E. The time constraints and limitations listed and described above in this section shall not apply to any motion, or to any ordinance, to adopt, amend, supplement or repeal the regulations and restrictions herein before described, or to provide for their enforcement. In addition, notwithstanding any of the procedural requirements set forth in this chapter or by other law, ordinances adopting or amending zoning regulations and restrictions or determining zone boundaries may be enacted under the emergency ordinance provisions of this charter without compliance with such requirements.
- F. The council, in determining the boundaries of zones, may approve an application or motion for, and may adopt an ordinance for, a zone change to a more restrictive zone than that originally applied for or moved; provided, in cases where the zone change procedure is initiated by other than the planning commission or the council on its own motion: (1) that the planning commission recommends in favor of such more restrictive zone change at a public hearing held to consider the application for a zone change amendment; (2) that the applicant agrees to the more restrictive zone change at or before the said planning commission hearing; and (3) that at least 10 days' notice of the more restrictive zone change and of the time and place of the public hearing before council required by this section shall be given by publication thereof in a newspaper of general circulation in the city. A protest under § 9.13 of this charter against a less restrictive zone change shall not be effective against a more restrictive change. This shall not, however, preclude the filing of an effective new protest against a more restrictive zone change under § 9.13, nor shall it preclude the effectiveness of a protest filed against both a less restrictive and a more restrictive zone change.
- G. Whenever a public hearing is required or provided under the provisions of this chapter or any related provision of general law, or under any local ordinance adopted pursuant to this chapter or such general law, at least 10 days' notice of the time and place of such hearing,

together with a general description of the matter being heard, shall be published in a newspaper of general circulation in the city. The council may, by ordinance, prescribe additional newspaper notice requirements for particular hearings or classes of hearings. This subsection shall preempt all other newspaper notice requirements of general or special law.

- H. Any ordinance adopted, or other action taken, under the authority of this chapter or any related provision of general law prior to April 1, 2004, shall not be declared to be invalid by reason of a failure to advertise or give notice as required by general law, so long as advertisement and notice of such adoption or action was given in compliance with the then applicable local law; however, this subsection shall not affect any litigation concluded before, or pending on, April 1, 2004.
- I. Whenever written notice of a public hearing is required to be given to an owner of property affected by the adoption or amendment of regulations or restrictions or zone boundaries under the provisions of this chapter or any related provision of general law, such notice shall be given for the public hearing on the application or motion for such adoption or amendment, as provided in subsection A or subsection B of this section, and not for the public hearing on the ordinance implementing the approval, as provided in subsection D of this section. (Acts 1956, ch. 262, § 1; Acts 1964, ch. 288; Acts 1968, ch. 510, § 1; Acts 1971, Ex. Sess., ch. 166, § 1; Acts 1973, ch. 258, § 1; Acts 1974, ch. 595, § 1; Acts 1982, ch. 480, § 1; Acts 1988, ch. 157; Acts 1989, ch. 536, § 1; Acts 1990, ch. 652, § 1; Acts 1994, bill no. 22, § 1; Acts 1995, ch. 6782, § 1; Acts 2004, Ch. 511, § 1)

Sec. 9.12.1 - Parties to applications and motions for amendments, supplements or repeal of regulations and restrictions and determination of boundaries.

Applications for changes in zone boundaries shall be accepted only from parties having a legal interest in the property, from the duly authorized representative of any such party or from persons exhibiting the consent of parties having a legal interest in the property. The planning commission may initiate on its own motion the adoption, amendment, supplement or repeal of any regulation, restriction or determination of boundaries of zones. The council may initiate on its own motion the adoption, amendment, supplement or repeal of any regulation, restriction or determination of boundaries of zones. All such applications and motions shall be subject to the procedures set forth in this chapter. This section shall preempt all provisions of general law applicable to the initiation by the planning commission or city council of the adoption, amendment, supplement or repeal of any regulation, restriction or determination of boundaries of zones. (Acts 1968, ch. 510, § 1; Acts 1989, ch. 536, § 1; Acts 2004, Ch. 511, § 1)

Sec. 9.12.2 - Disclosure by applicants.

- (a) The zoning ordinance may provide that each applicant for a land use or land development approval pursuant to such ordinance make full public disclosure of parties having an ownership interest in the real estate that is the subject of the application and of parties having any other financial interest in such application or approval.
- (b) The zoning ordinance may further provide that a party having an ownership interest in such real estate or any other financial interest in such application or approval make full public disclosure of any business or financial relationship that such party presently has, or has had within the 12-month period prior to the public hearing on the application, to each member of

the planning commission, board of zoning appeals, boards of architectural review, or city council, as the case may be.

- (c) The zoning ordinance may further provide that a member of the planning commission, board of zoning appeals, board of architectural review, and city council, as the case may be, who has or has had a business or financial relationship subject to disclosure under subsection B shall be ineligible to vote or participate in any way in consideration of the application; provided, however, that for purposes of this subsection, a business or financial relationship arising out of a campaign contribution, which has been disclosed as required by law, shall not render a member ineligible to vote or participate.
- (d) The ordinance may establish reasonable classifications and definitions of the nature and extent of the ownership and other financial interests subject to the disclosures provided under subsections (a) and (b), provided that such classifications and definitions shall not be more inclusive or stringent than the classifications and definitions established by § 15.2-852 of the Code of Virginia.
- (e) The ordinance may establish reasonable classifications and standards for the disclosures provided under subsection (a) and (b), and for the recusal provided under subsection (c), provided that such classifications and standards shall not be more inclusive or stringent than the classifications and standards established by § 15.2-852 of the Code of Virginia, and may establish reasonable procedures for the administration of the ordinance.
- (f) Any person who knowingly and willfully violates the provisions of the zoning ordinance adopted pursuant to this section shall be guilty of a Class 1 misdemeanor.
- (g) The provisions of this section preempt any conflicting provisions of law, general or special, except that any provision of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) of the Code of Virginia that is more stringent than the provisions of any ordinance adopted pursuant to this section shall not be preempted. (Acts 2009, Ch. 539, § 1)

Sec. 9.13 - Effect of protest by twenty per cent of the owners of property.

If a protest is filed with the city clerk against an application of motion to amend the boundaries of a zone or to amend the terms of an adopted conditional zoning proffer or zoning condition, signed by the owners of twenty percent or more either of the area of land within the boundaries of such proposed change or of the area of land within 300 feet of the boundaries of the land affected by such proposed change, the council shall not approve the application or motion, or adopt the ordinance making such amendment, by less than three-fourths affirmative votes of the members of council. Streets, alleys and lands dedicated to public use or lands owned by the city, Commonwealth, or federal government shall not be included in computing the abovementioned areas.

Any such protest shall be filed not later than 12 o'clock noon on the last working day before the day on which a public hearing on the application or motion is first conducted by the city council. Once any such protest has been filed no changes thereto by way of addition, substitution, amendment or withdrawal, may be made after said 12 o'clock noon deadline. (Acts 1960, ch. 8, § 1; Acts 1966, ch. 12, § 1; Acts 1966, ch. 83, § 1; Acts 1971, Ex. Sess., ch. 166, § 1; Acts 1974, ch. 595, § 1, Acts 1988, ch. 157; Acts 1990, ch. 652, § 1)

Sec. 9.14 - Board of zoning appeals; composition.

There shall be a board of zoning appeals which shall consist of seven members. They shall be qualified resident voters of the city, shall hold no office of profit under the city government and shall be appointed by the city council for terms of four years. Vacancies shall be filled by the city council for the unexpired portion of the term. A member may be removed by the council for neglect of duty or malfeasance in office, upon written charges and after a public hearing. Members of the board of zoning appeals shall serve without compensation, but may receive reimbursement for travel and expenses incurred by attendance at conventions, meetings and such other travel as may be in the interest of the city and the performance of the duties and activities of the board of zoning appeals. (Acts 1982, ch. 480, § 1; Acts 1992, ch. 512, § 1)

Sec. 9.15 - Board of zoning appeals; organization.

The board shall elect one of its members as chairman. The chairman shall preside at all meetings of the board and in his absence a member designated by the board shall act as chairman and shall preside. The board shall appoint a secretary and the city manager shall appoint such other employees as may be needed for the conduct of the work of the board. (Acts 1982, ch. 480, § 1)

Sec. 9.16 - Board of zoning appeals; procedure.

The meetings of the board shall be held at the call of the chairman and such other time as the board may determine. The board shall keep minutes of its proceedings showing the vote of each member on each question or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the board and shall be a public record.

Sec. 9.17 - Appeals of board of zoning appeals.

Appeals to the board may be taken by any person aggrieved, or by any officer, department, board, commission or agency of the city affected, by any decision of the director of planning, who shall enforce the ordinance establishing zones and regulating and restricting the use of land, buildings and structures therein. Appeals shall be taken within such reasonable time as shall be prescribed by the board by general rule by filing with the said director of planning and with the board a notice of appeal specifying the grounds thereof. The director of planning shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the director of planning from whose decision the appeal is taken certifies to the board that by reason of the facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application and on notice to the director of planning and on due cause shown.

The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the issue within a reasonable time. At the hearing any party may appeal in person, by agent or by attorney and shall be given opportunity to be heard. The board may prescribe a fee to be paid whenever an appeal is taken which fee shall be paid into the city treasury.

Sec. 9.18 - Powers of board of zoning appeals.

The board shall have the following powers and it shall be its duty:

- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination by the director of planning in the administration and enforcement of the provisions of the ordinance.
- (b) To authorize upon appeal in specific cases such variance from the terms of the 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 the ordinance shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of the exceptional topographical condition or other extraordinary situation, or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

No such variance shall be authorized by the board unless it finds:

- (1) That the strict application of the ordinance would produce undue hardship.
- (2) That such hardship is not shared generally by other properties in the same zone and the same vicinity and is not created by the owner of such property.
- (3) That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the zone will not be changed by the granting of the variance.

No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property 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 the ordinance.

In authorizing a variance the board may impose such reasonable conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the interest of public health, safety or welfare and to assure that the variance authorized shall be in harmony with the intended spirit and purpose of this chapter and the ordinance.

- (c) To permit, when reasonably necessary in the public interest, the use of land, or the construction or use of buildings or structures, in any zone in which they are prohibited by the ordinance, by any agency of the city, state, or the United States, provided such construction or use shall adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property, shall not unreasonably impair an adequate supply of light and air to adjacent property, shall not increase congestion in streets and shall not increase public danger from fire or otherwise affect public safety.

(d) To permit the following exceptions to the zone regulations and restrictions, provided such exceptions shall by their design, construction and operation adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property, shall not unreasonably impair an adequate supply of light and air to adjacent property, shall not increase public danger from fire or otherwise unreasonably affect public safety, and shall not diminish or impair the established property values in surrounding areas:

- (1) (Deleted by Acts 1968, ch. 510, § 1)
- (2) Extension of a zone where the boundary line of a zone divides a lot in single ownership as shown of record at the time of the effective date of the ordinance.
- (3) Reconstruction of buildings or structures that do not conform to the comprehensive zoning plan and regulations and restrictions prescribed for the district in which they are located, which have been damaged by explosion, fire, act of God or the public enemy, to the extent of more than sixty per cent of their fair market value as established by the opinion of three disinterested appraisers to be appointed by the city council, when the board finds some compelling public necessity for a continuance of the use and such continuance is not primarily to continue a monopoly, provided that nothing herein shall relieve the owner of any such building or structure from obtaining the approval of such reconstruction by the council or any department or officer of the city when such approval is required by any law or ordinance. (Acts 1958, ch. 105, § 1; Acts 1958, ch. 132, § 1; Acts 1968, ch. 510, § 1; Acts 2010, ch. 221, § 1)

Sec. 9.19 - Form and scope of decisions by board of zoning appeals.

In exercising the powers conferred upon it the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, appealed from, and make such order, requirement, decision or determination as should be made, and to that end shall have all the power of the director of planning. The concurring affirmative vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as should be made, and to that end shall have all the powers of the director of planning. The concurring affirmative vote of four members of the board shall be necessary to reverse any order, requirement and decision or determination of the director of planning or to decide in favor of the applicant in any matter of which it has jurisdiction. The board shall render a written decision which shall set forth the reason for its decision and the vote of each member participating therein shall be spread upon its records and shall be open to public inspection. (Acts 1956, ch. 262, § 1; Acts 1992, ch. 512, § 1)

Sec. 9.20 - Appeals from board of zoning appeals.

Any person, firm or corporation, jointly or severally aggrieved or in fact affected by a decision of the board of zoning appeals, or any officer, department, board or agency of the city government charged with the enforcement of any order, requirement or decision of said board, may appeal from such decision by filing a petition in the circuit court of the city, verified by affidavit, setting forth the alleged illegality of the action of the board and the grounds thereof. The petition shall be filed within thirty calendar days from the date of the decision of the board. (Acts 1982, ch. 480, § 1)

Sec. 9.21 - Powers and duties of the court.

The circuit court shall review the record documents and actions taken by the board and may receive evidence. The court may reverse or modify the decision reviewed, in whole or in part, when it is satisfied that the decision of the board is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion. (Acts 1983, ch. 314, § 1)

Sec. 9.22 - Proceedings against violators of zoning ordinance.

Whenever any building or structure is erected, constructed, reconstructed, altered, repaired or converted, or whenever any land, building or structure is used in violation of any ordinance adopted in accordance with section 9.12 of this chapter, the city may institute and prosecute appropriate action or proceedings to prevent such unlawful act and to restrain, correct or abate such violation or to prevent any unlawful act, conduct or use of such property.

Sec. 9.23 - Penalties for violation of zoning ordinance.

The council may in the zoning ordinance provide that penalties, civil or criminal, as provided in § 2.06 of this charter shall be imposed for violations of the ordinance by owners of land, buildings or structures, their agents having possession or control of such property, lessees, tenants, architects, builders, contractors or any other persons, firms or corporations who take part in or assist in any such violations or who maintain any land, building or structure in which such violations exist. This section shall preempt all provisions of general law authorizing the establishment of penalties for the violation of the zoning ordinance. (Acts 1992, ch. 512, § 1; Acts 2004, Ch. 511, § 1)

Sec. 9.24 - Land subdivisions.

In order to provide for the orderly subdivision of land within the city, there is hereby conferred upon the city, the power to adopt resolutions relative to the subdivision of land in the manner hereinafter provided. Such regulations may prescribe standards and requirements for the subdivision of land which may include but shall not be limited to the following: Location, size and layout of lots so as to prevent congestion of population and to provide for light and air; the width, grade, location, alignment and arrangement of streets and sidewalks with relation to other existing streets, planned streets and the master plan; access for fire fighting apparatus; adequate open spaces; adequate and convenient facilities for vehicular parking; easements for public utilities; suitable sites for schools, parks and playgrounds; planting of shade trees and shrubs; the restriction or regulation of the erection of buildings and structures in areas subject to flood; naming and designation of streets and other public places; laying out, constructing and improving streets, alleys and sidewalks and the installation of storm and sanitary sewers or any other utilities owned by the city and apportioning the cost thereof; and the guarantee of payment by the developer of his proportionate share of such cost; procedure for making variations in such regulations and restrictions; requirements for plats of subdivisions and their size, scale, contents and other matters; for the erection of monuments of specified type for making and establishing property, street, alleys, and other lines and provide penalties for the unauthorized removal of such monuments. (Acts 1966, ch. 12, Sec. 1; Acts 1966, ch. 83, Sec. 1; Acts 1982, ch. 480, § 1)

Sec. 9.25 - Repealed by Acts 1982, ch. 480, § 2.

Sec. 9.26 - Adoption of regulations and restrictions applicable only within the city limits.

After hearing as above provided the council shall adopt by ordinance the regulations referred to in section 9.24 which shall become effective when recorded in the office of the clerk of the circuit court. (Acts 1982, ch. 480, § 1)

Sec. 9.27 - Approval of plats and subdivisions.

From and after the date on which such regulations and restrictions become effective in the city the owners of tracts of land within the city to which such regulations and restrictions are applicable who subdivide them into two or more lots, shall cause plats of such subdivisions, in the form prescribed by the applicable regulations and restrictions, to be made and submitted to the city planning commission. It shall be the duty of such commission to consider such plat in the light of the regulations and restrictions applicable to the same and approve or disapprove the plat in accordance therewith. Before taking any action thereon the city planning commission shall afford the owner and other interested parties an opportunity to be heard after such reasonable notice as may be provided in such regulations and restrictions. Failure to act on any plat for a period of forty-five days shall be deemed to constitute approval. Approval shall be attested on the plat by the signature of the chairman or vice-chairman of the city planning commission. The council may by ordinance provide for appeals to the city council in cases in which the city planning commission approves or disapproves a plat of subdivision; provided, that in the instance of an appeal from an approval the appeal must be made by the owners of at least twenty percent of the area of the land within three hundred feet of the boundaries of the proposed subdivision. Streets, alleys and land dedicated to public use or land owned by the city, state or federal governments or public agencies shall not be included in computing said area. (Acts 1972, ch. 808, § 1; Acts 1974, ch. 595, Sec. 1)

Sec. 9.28 - Recording of plats of subdivisions.

From and after the date on which such regulations and restrictions become effective in the city no plat of any subdivision to which such regulations and restrictions are applicable shall be received or recorded by the clerk of any court unless the plat has been approved as provided in the preceding section. No owner of land in the city who has subdivided the same into two or more lots, shall sell or offer for sale any such lot by reference to or exhibition of or by the use of a plat of such subdivision or otherwise before the plat of such subdivision has been approved as provided in the preceding section and has been recorded in the office of the clerk of the court in which a deed conveying such lot would be required to be recorded.

Sec. 9.29 - Penalty for transfer of lots in unapproved subdivisions.

Whoever being the owner or agent of the owner of any land subject to such regulations and restrictions, the plat of which has not been approved and recorded as above provided, shall transfer, sell or offer for sale or agree to sell a portion of any such land by reference to or exhibition of an unapproved and unrecorded plat or otherwise, shall be punishable by fine not exceeding three hundred dollars or imprisonment in the city jail for not more than ninety days or both, for each lot or similar parcel of land transferred or agreed or negotiated to be sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalty or from the remedies herein provided. The city may enjoin such transfer or sale or

agreement in a court having jurisdiction of the land to which the injunction applies. (Acts 1968, ch. 510, Sec. 1)

Sec. 9.30 - Transfer of portion for public use.

The recording of the plat shall operate to transfer in fee simple to the city such portion thereof as is on the plat set apart for streets, alleys, easements or other public use or purpose and to create a public right of passage over or use of the same.

Sec. 9.31 - Vacation of plats.

Any plat or part thereof recorded may be vacated in accordance with the provisions of sections 15-792 and 15-793 of the Code of 1950.

Sec. 9.32 - Present master plan and comprehensive zoning plan.

The master plan and the comprehensive zoning plan as heretofore adopted, approved and filed, with all amendments, additions and extensions thereto, in force and effect at the effective date of this charter, are hereby validated and confirmed as if the same had been prepared, adopted, approved and filed in accordance with the provisions of this chapter. Every amendment or addition thereto or extension thereof and every other master plan or comprehensive zoning ordinance henceforth adopted shall be in accordance with the provisions of this chapter. Where existing ordinances are at variance with the provisions of this chapter they shall be deemed to be amended in accordance with the provisions of this chapter.

Sec. 9.33 - Land development and site plans.

In order to provide for the orderly and proper development of land within the city and to protect the public safety, health and welfare the city council shall have the power to adopt by ordinance regulations and restrictions relative to the development of land. Such regulations and restrictions may prescribe standards and requirements which provide for, but shall not be limited to, the following: Access for fire, police, emergency and service vehicles; width, grade, location, alignment and arrangement of streets and sidewalks with relation to existing streets and sidewalks, planned streets and sidewalks and the master plan; easements for public utilities; facilities for off-street parking; laying out, constructing and improving streets, alleys, and sidewalks; access to adjacent land and to existing or proposed streets; water mains for servicing fire hydrants; disposition of storm water; disposition of sewage; control of flooding; control of slippage, shifting, erosion, accretion and subsidence of soil; dedication of public streets, alleys, sidewalks, curbs, gutters, sewers, drains and other public improvements; protection to other land, structures, persons and property; guarantee of payment by the developer of all costs or a proportionate share of costs for public streets, alleys, sidewalks, curbs, gutters, sewers and drains; the submission and approval of site plans and plats prior to developments; and procedures, enforcement and penalties. The procedures may include but shall not be limited to authorizing the city planning commission to consider the site plans and plats in light of the regulations and restrictions applicable thereto and approve or disapprove site plans and plats in accordance therewith. (Acts 1962, ch. 61, Sec. 1)

Sec. 9.34 - Incorporation by reference of plans, maps, etc.

Plans, maps, plats, charts, descriptive matter, regulations, restrictions, zone boundaries, and amendments, recommended or adopted under the powers conferred by this chapter may be incorporated by reference. Whenever there is incorporation by reference the matter incorporated shall be reasonably identified. When advertisement is required, the matter incorporated by reference need not be advertised in full but may be advertised by reference. In such cases, the advertisement shall designate a place where the matter incorporated may be examined. (Acts 1972, ch. 808, § 1; Acts 1982, ch. 480, § 1)

DIVISION D. - CITY PLANNING COMMISSION

Sec. 11-1500 - Establishment and authority.

11-1501 - Purpose and general authority.

The planning commission is established to perform such duties as are set forth in, and exercised the authority conferred by, chapter 9 of the city charter, this ordinance and other applicable law. In general, the commission shall have such powers as may be necessary to enable it to fulfill its function, promote planning and carry out the purposes of this ordinance.

11-1502 - Composition of planning commission.

- (A) The city planning commission shall consist of seven members, who shall be qualified resident voters of the city who hold no office of profit under the city government, appointed by the city council for terms of four years. The city manager shall designate an officer or employee to sit with the commission with the right to discuss and advise but without the right to vote. Vacancies shall be filled by council for the unexpired portion of the term.
- (B) Members of the city planning commission shall serve as such without compensation, but may receive reimbursement for travel and expenses incurred by attendance at conventions, meetings and such other travel as they may perform in the interest of the City of Alexandria in the performance of the duties and activities of the planning commission.
- (C) Any member of the planning commission may be removed from office by the city council after public hearing, of which such member shall receive at least 10 days notice in writing, for inefficiency, neglect of duty or malfeasance in office.

11-1503 - Organization and staff.

- (A) The commission shall elect a chairman and vice-chairman from among its members, for a term of one year and appoint a secretary. The officers shall be eligible for reelection. The commission shall adopt rules for the transaction of its business, and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. The commission shall make an annual report to the council concerning its activities.
- (B) The city manager may appoint such employees as the manager may deem necessary for the work of the commission and may enter into contracts with planners, engineers, architects and other consultants for services that the commission may require. All expenditures, exclusive of gifts to the commission, shall not exceed the sums appropriated by the city council therefore.

- (C) All public officials shall, upon request, furnish to the commission within a reasonable time such available information as it may require for its work. The commission, its members, officers and employees in the performance of their duties may enter upon any land in the city and make examinations and surveys and place and maintain necessary monuments and markers thereon, and shall have the right to apply to an appropriate court for the issuance of a warrant for same.

11-1504 - Powers and duties with respect to master plan and zoning.

- (A) It shall be the duty of the commission to make and adopt a master plan which, with the accompanying maps, plats, charts, and descriptive matter, shall show the commission's recommendations for the development of the territory covered by the plan.
- (B) The commission may adopt the plan as a whole by single resolution or may by successive resolutions adopt successive parts of the plan, said parts corresponding to major geographical sections or geographical or topographical divisions of the city or with functional subdivisions of the subject matter of the plan. The commission also may adopt any amendment or extension thereof or addition thereto and from time to time, at intervals not exceeding five years, shall prepare and submit to the council such changes in or revisions of said plan as changing conditions may make necessary.
- (C) The commission shall the power to promote public interest in and understanding of the plan and to that end may publish and distribute copies of the plan or any report relating thereto, and may employ such other means of publicity and education as it may determine.
- (D) It shall be the duty of the planning commission to prepare and submit to the council from time to time, at intervals not exceeding two years, such changes in or revisions of this ordinance as changing conditions may make necessary.

11-1505 - Miscellaneous actions requiring planning commission approval.

- (A) No street, square, park or other public way, ground or open space, or public building or structure shall be authorized or constructed in the city unless and until the general location, character and extent thereof has been submitted to and approved by the commission as being substantially in accord with the master plan.
- (B) No widening, extension, narrowing, enlargement, vacation or change in the use of any street, square, park and other public way, ground or open space place within the city, and no sale of any land held by the city, shall be authorized to take place unless and until such transaction has been submitted to and approved by the commission as being substantially in accord with the master plan.
- (C) No public utility, whether publicly or privately owned, shall be authorized or constructed in the city unless and until its general location, but not its character and extent, has been submitted to and approved by the commission as being substantially in accord with the master plan.

- (D) In case of disapproval by the commission in any of the instances enumerated above in this section, the commission shall communicate its reasons to the city council which shall not have the power to overrule such action except by a recorded affirmative vote of three-fourths of the members of the council.
- (E) In any of the instances enumerated above in this section, the failure of the commission to act within 60 days from the date of the official submission to it shall be deemed approval.
- (F) The foregoing provisions of this section shall not be deemed to apply to the pavement, repavement, reconstruction or improvement, to the laying of underground pipes and conduits for normal service extension or drainage, or to other similar work in or upon any existing street or other existing public way.

11-1506 - Subdivision committee.

- (A) A committee of the commission is established for the purpose of hearing and acting on applications for subdivision approval when the parcel to be subdivided does not exceed three acres, no new public or private streets are proposed and no dedications are involved.
- (B) The committee shall consist of two members of the commission, who shall be appointed by the chairman, and the director or his designee. Any two members shall constitute a quorum.

(Ord. No. 3609, § 1, 12-12-92; Ord. No. 3845, § 1, 2-24-96)

Sec. 11-1600 - Meetings and procedures.

11-1601 - Meetings.

The planning commission shall meet at least once each month at such time and place as may be designated. Special meetings shall be upon the call of the chairman consented to by a majority of the members.

11-1602 - Attendance of applicants.

- (A) The applicant for any site plan, subdivision plat or special use permit approval, or for any change in zone boundaries, or for any vacation of or encroachment upon any public right-of-way, or an authorized representative of such applicant, shall appear at and attend, at the time and place designated, the public hearing on and the consideration of such application by the planning commission.
- (B) In the event such applicant or representative fails to so appear and attend, the planning commission may deny and dismiss such application without prejudice to the right of the applicant to refile the application, or the commission may defer public hearing and

consideration of such application until the next regularly scheduled meeting of the commission; provided, that the commission shall not defer public hearing and consideration of any application if deferral would result in the approval of the application by virtue of the inaction by the commission within the time provided by law for approval or denial of such application.

- (C) If the commission defers an application, it shall cause written notice of the time and place of its next regularly scheduled meeting to be mailed, first class, postage prepaid to the applicant at the address indicated on the application form, not less than 10 days in advance of the date of such meeting, and the applicant or his representative shall appear and attend at the time and place designated in such notice. In the event the applicant or his representative fails to appear at and attend the deferred public hearing and consideration of such application, the application shall be denied and dismissed by the planning commission and the subject matter thereof shall not be considered by the commission or city council for a period of six months from the date of such denial and dismissal.
- (D) Notwithstanding any provision in this ordinance to the contrary, no appeal shall lie to city council from the denial and dismissal of any application pursuant to the provisions of this section, and any application which has been so denied and dismissed by the planning commission shall forthwith be stricken from the city council docket.
- (E) The director of the department of planning and zoning shall append a statement setting forth the provisions of this section to all application forms to which this section is applicable.

(Ord. No. 3609, § 1, 12-12-92; Ord. No. 3743, § 2, 1-21-95)

Draft September 22, 2015

Revised 1/4/1994

CITY PLANNING COMMISSION-
CITY OF ALEXANDRIA, VIRGINIA

BY-LAWS

ARTICLE I. ORGANIZATION

Section 1. Officers.

(a) The City Planning Commission (~~“Commission”~~) shall, at its first meeting in March of each year, elect a ~~Chairman~~Chair and a Vice ~~Chairman~~Chair, who shall serve for one year or until their respective successors are chosen. The Secretary shall preside at the election of the ~~Chairman~~Chair.

(b) The Director of the Department of Planning and Community Development ~~Zoning~~ shall be the Secretary of the Commission *ex officio*.

Section 2. Duties of Officers.

(a) The ~~Chairman~~Chair shall preside at the meetings of the Commission, execute its correspondence, and authenticate subdivision plats and site plans approved by the Commission or a committee thereof, resolutions, and other actions of the Commission.

(b) The Vice ~~Chairman~~Chair shall, in the absence of the ~~Chairman~~Chair at any meeting of the Commission, exercise the duties of the ~~Chairman~~ and responsibilities of the Chair at such meeting. In the event of the resignation, termination of term or death of the Chair, the Vice Chair shall become the Chair and shall have ~~concurrent authority~~ all duties of the Chair pursuant to Section 2 of this Article I, until a successor Chair is elected in accordance with the ~~Chairman~~ to authenticate approved subdivision plats and site plans Section 1 of this Article I.

(c) The Secretary shall be the custodian of the Commission's records and shall prepare and authenticate a record of its proceedings, prepare the agenda for its meetings, and give notice thereof as provided in the Zoning Ordinance.

ARTICLE II. MEETINGS

Section 1. Regular Meetings. The Commission shall hold a regular meeting on the first Tuesday of each month at 7:3000 P.M., at City Hall, unless the Commission shall designate another date, time or place for such meeting.

Section 2. Special Meetings. Special meetings shall be held at the call of the ~~chairman~~Chair, consented to by a majority of the members of the Commission.

Section 3. Quorum. A majority of the members of the Commission shall constitute a quorum.

Section 4. Passage of Motions.

(a) An affirmative vote of a majority of the members present shall be sufficient to pass a motion, unless a greater number is required by the City Charter or the Zoning Ordinance. ~~A tie vote on a motion to approve or deny an application shall be deemed a denial thereof.~~

(b) A tie vote on a motion to approve or deny an application shall be deemed a denial thereof. A tie vote on a motion to recommend approval or denial of an application shall constitute a recommendation of denial.

(c) Nothing herein shall alter or amend the present rules relating to deferrals of applications.

ARTICLE III. ORDER OF BUSINESS

The order of business shall be:

1. Call to order
2. Consent Calendar
3. Unfinished business and items previously deferred
4. New business
 - ~~(a) Reports of studies by staff~~
 - ~~(b) Amendments to the Master Plan~~
 - ~~(c) Zoning Ordinance text amendments~~
 - ~~(d) Zoning Map amendments~~
 - ~~(e) Other matters requiring action under Section 9.06 of the City Charter~~
 - ~~(f) Subdivision plats~~
 - ~~(g) Special use permits~~
 - ~~(h) Site Plans~~
 - ~~(i) Other new business~~
5. Consideration of the minutes of previous meetings
6. Other business
7. Adjournment

Related matters shall be grouped. The ~~Commission~~Chair or the Secretary may change the order of business prior to the publication of the official notice thereof, and the Commission may change the order of business at any time during a regular or special meeting.

ARTICLE IV: ~~ORDER OF BUSINESS~~ CONSENT CALENDAR

The docket of the regular meetings of the Commission shall include a consent calendar. The Secretary shall place on the consent calendar those docket items that do not require a separate

recorded vote and which, in ~~his~~the Secretary's opinion, do not involve significant issues or significant public concern. When the consent calendar is reached, the chair shall ascertain if any Commissioner, staff member, applicant, or member of the public desires ~~a separate vote onto~~have any item removed from the consent calendar, in which event any such item, and in any case where a separate vote is requested that item shall be removed from the consent calendar and brought up for consideration after ~~the~~any remaining consent calendar items have been adopted.

ARTICLE V. COMMITTEES AND COMMISSION REPRESENTATIVES

The ~~Chairman~~Chair shall appoint the Commission members ~~of the Subdivision Committee, set up and appoint the members of to any continuing or ad hoc committees of the Commission, and shall~~ designate or appoint Commission members as Commission representatives to other boards, commissions, or committees.

ARTICLE VI. PARLIAMENTARY RULES

Except as otherwise provided by the City Charter, the Zoning Ordinance, or these bylaws, the then-current ~~of~~Robert's Rules of Order shall govern the proceedings of the Commission.

ARTICLE VII. AMENDMENTS

These bylaws may be amended by a two-thirds vote of the entire membership of the Commission, provided that at least five ~~days~~days' notice of the proposed amendment has been given the members of the Commission. ~~They may be suspended in a particular instance by a two-thirds vote of the entire membership of the Commission.~~

Adopted: May 4, 1993.

Revised: January 4, 1994.

Revised: