

TOWN OF DUMFRIES, VIRGINIA
BOARD OF ZONING APPEALS
Bylaws and Rules of Procedure
Adopted February 6, 2018

The Town of Dumfries Board of Zoning Appeals adopts these Bylaws for its rules and procedures for the transaction of its business for the benefit and convenience of the citizens of The Town of Dumfries (“Town”)

ARTICLE I. NAME

The official title of this Board is the Town of Dumfries Board of Zoning Appeals, also known by the abbreviation “BZA.”

ARTICLE II. ORIGIN, AUTHORITY, AND PURPOSE FOR THE BOARD

2.1 Origin and Authority. This Board of Zoning Appeals, established in accordance with §15.2-2308 of the Code of Virginia (as amended), adopts the following articles in order to carry out its powers and duties in accordance with Title 15.2 Chapter 22, Article 7, of the 1950 Code of Virginia, as amended, and the Town Code of the Town of Dumfries, as amended.

2.2 Purpose. Through the authority enacted by the Code of Virginia, and as established by Town Council of the Town of Dumfries, the Board of Zoning Appeals provides a means through which a property owner may seek relief from provisions of the zoning ordinance and determinations of the Town Zoning Administrator. The BZA acts in accordance with Chapter 70, Article 6 of the Code of Ordinances of the Town of Dumfries (as amended).

ARTICLE III. COMPOSITION

3.1 Membership. The composition of the BZA shall consist of five (5) or (7) members.

3.2 Members. The members of the BZA shall each be a resident of the Town of Dumfries and each to be appointed by the Circuit Court of Prince William County. Members shall hold no other public office in the Town except that one (1) member may be a member of the Town’s Planning Commission. In order to be considered for appointment to the BZA, residents must not be delinquent on any Town taxes or fees and successfully pass a Virginia State Police background check.

3.2.a Filling Vacancies on the BZA. Upon notice by the Town Manager or the Secretary of the BZA of the upcoming expiration of a term or of a vacancy, the Town Council shall review any current applications for membership on the BZA and if necessary, direct staff to solicit applications in a generally circulated newspaper or media outlet. Upon review of any applications for membership on the BZA, the Town Council shall vote on a candidate or candidates for appointment and provide the name(s) of the qualified candidate(s) to the Town Attorney for submission to the Prince William County Circuit Court for appointment. The Town Manager shall notify the Town Council ninety (90) days prior to the end of any term or terms to expire.

3.3 Term. Members shall be appointed to serve for terms of five (5) years, except the original appointments shall be made for such terms that the term of one member shall expire each year.

3.4 Officers. The Officers shall be selected or appointed on an annual basis as designated below:

3.4.a Chairperson. The Chairperson of the BZA shall be elected by the voting members of the BZA at the BZA's first regular meeting in January each year. A candidate receiving a majority vote of the entire membership of the BZA shall be declared elected and take office immediately. The Chairperson shall be a voting member. The term of office for the Chairperson shall be for one (1) year or until a successor shall take office. If elected, the Chairperson may serve up to two (2) consecutive one (1) year terms. The Chairperson shall preside at all meetings and shall serve as the parliamentarian and decide all points of order and procedure, subject to this article. The Chairperson shall appoint any committees and committee chairs found to be necessary. The Chairperson (or the Vice-Chairperson in his absence) must attend any Town Council meeting in which a report is being presented by the BZA and any Town Council meeting in which a recommendation of the BZA is being presented to the Town Council or considered by the Town Council. Vacancies in the position of Chairperson shall be filled immediately by majority vote of the membership at the next regular meeting following notification of the vacancy and shall be for the unexpired portion of the term.

3.4.b Vice-Chairperson. The Vice-Chairperson shall be elected by the voting members of the BZA at the BZA's first regular meeting in January each year. A candidate receiving a majority vote of the entire membership of the BZA shall be declared elected and take office immediately. The Vice-Chairperson shall be a voting member. The term of office for the Vice-Chairperson shall be for one (1) year or until a successor shall take office. If elected, the Chairperson may serve up to two (2) consecutive one (1) year terms. The Vice-Chairperson shall serve as acting Chairperson in the absence of the Chairperson. During the period the Vice-Chairperson shall act as Chairperson, he shall have the same authority and duties as the Chairperson. The Vice-Chairperson (in the absence of the Chairperson) must attend any Town Council meeting in which a report is being presented by the BZA and any Town Council meeting in which a recommendation of the BZA is being presented to the Town Council or considered by the Town Council. Vacancies in the position of Vice-Chairperson shall be filled immediately by majority vote of the membership at the next regular meeting following notification of the vacancy and shall be for the unexpired portion of the term.

3.4.c Secretary. The selection of Secretary of the BZA shall be the responsibility of the Town Manager. The Town Manager shall designate a qualified Town staff member or independent contractor to provide the BZA with support services and project presentation support. The Secretary, as he/she is not a member of the BZA, shall not count toward a quorum and shall not be entitled to vote on matters before the BZA. The Secretary shall ensure an audio record is created of every meeting and keep minutes of its proceedings, showing the vote of each member upon each question on each piece of business requiring a vote brought before it and if a member is absent or fails to vote such fact must be indicated. All records of examinations and other official actions shall be immediately filed at Town Hall along with minutes and all other such other records as the Town Manager deems necessary and shall become a public record. The Secretary shall notify the Town Attorney, Town Clerk, the BZA members, the Dumfries Town Council, and the Prince

William County Circuit Court at least (30) days in advance of the expiration of any term of office, and shall also notify the Town Attorney, Town Clerk, the BZA members, the Dumfries Town Council, and the Prince William County Circuit Court promptly if any vacancy occurs.

3.4.d Chair Pro Tem. In situations in which both the Chairperson and the Vice-Chairperson are absent from a hearing or meeting, the remaining members of the BZA shall elect a Chair Pro Tem from among themselves by a majority vote.

3.4.e Quorum when Electing Officers. In the event that a quorum does not exist at the January meeting, the BZA shall elect officers at the next regular business meeting at which a quorum is established.

3.5 Conduct of Members. The Conduct of the members of the BZA shall, at a minimum, conform to the standards below:

3.5.a Preparation for Meetings. Members of the BZA shall take such time as necessary to prepare themselves for hearings and meetings.

3.5.b Compliance with State and Local Law. BZA members shall comply at all times with the Virginia State and local Conflict of Interest Act (Code of Virginia §2.231-et seq., 1950, as amended, hereinafter “the Act”). A BZA member with a personal interest (as defined in Code of Virginia § 2.2-3101) in any transaction or matter coming before the BZA must disclose that personal interest in accordance with the Act. The member shall disqualify himself/herself from participating in the matter if the matter has application solely to property or a business in which the BZA member has a personal interest, or is otherwise unable to participate by virtue of the Act. Nonetheless, a member may participate in the BZA’s deliberations and vote on the matter if the BZA member is a member of a business, profession, occupation, or group, the members of which are affected by the matter under consideration, and the BZA member complies with the declaration requirements of the Code of Virginia, § 2.2-3115 (G). The BZA member may also participate in the matter under consideration if the matter affects the public generally, even though the personal interest of the BZA member, as a member of the public, may also be affected. In the event that a personal interest prevents a BZA member from participating in the BZA’s actions on a matter, the interest of that BZA member may be represented before the BZA by a specifically designated representative or legal agent at the public hearing or work session, and testimony entered into the public record. Further, the BZA members shall, if required by the Act, complete a written declaration of the conflict in the form specified by the *Code of Virginia*, such declaration to be kept with the minutes of the meeting.

3.5.c Ex Parte Contact/Communication Prohibited. Ex Parte Communication between BZA members and applicants or other party of interest, and attorneys for an applicant or party in interest are strictly prohibited.

- 1) No applicant or other party of interest, and no attorney for an applicant or party in interest, shall initiate any contact with a member of the BZA for the purpose of conducting a private discussion, in person, by telephone or electronic mail, concerning the merits of any application, appeal, or other matter pending before the BZA.
- 2) No member of the BZA shall participate in any such private discussion.
- 3) If any member of the BZA is contacted by a party in interest, or attorney for such party, with reference to a matter pending before the BZA, the BZA member shall respectfully

inform the party or attorney of the restrictions which this Rule imposes, and of the right of the party to make a full presentation to the entire BZA at a Public Hearing and promptly discontinue the discussion. Any member that is contacted by an applicant or party in interest shall disclose such contact to the BZA.

3.5.d Removal from Membership on the BZA. Any member of the BZA may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause (including willful nonpayment of any Town fees or taxes), by the court that appointed him, after a hearing held after at least fifteen (15) days' notice.

3.6 Compensation. Members of the BZA may receive such compensation as may be authorized by the Dumfries Town Council and as permitted or required by the Virginia State Code and the Town Code of the Town of Dumfries.

3.7 Others. With prior approval of Town Council and within the limits of funds appropriated by the Town Council, the BZA may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services pursuant to §15.2-2308.D of the Code of Virginia (as amended).

ARTICLE IV. MEETINGS AND PROCEDURE

4.1 Meetings. Regular and special meetings of the BZA will adhere to the following standards:

4.1.a Regular Business Meetings. Regular meetings of the BZA shall be held on the 3rd Wednesday of each month, holidays excepted. In the event that a regular meeting falls on a Town holiday, the meeting will be held on the 4th Wednesday of that month. The meeting shall be open at 7:00 p.m. local time (unless otherwise noted on posted agenda) and adjourn upon completion of the business brought before it.

4.1.b Special Meetings. Special meetings may be called at any time by the Chairperson or a majority of the board, providing a proper notice. Any such special meeting shall be held only after notice as required by the Virginia Freedom of Information Act, § 2.2-3700 et. seq. of the Code of Virginia (as amended).

4.1.c Closed Sessions. Closed Sessions may be held for the purposes provided for in the Virginia Freedom of Information Act. Provided that:

- 1) No meeting shall become a Closed Session unless there shall have been recorded an affirmative vote to that effect by the BZA.
- 2) Immediately subsequent to each Closed Session, the BZA shall certify, in open session that only matters specifically identified for convening the Closed Session were discussed or considered.
- 3) No action agreed upon in a Closed Session shall become effective unless confirmed by the BZA in an open meeting.
- 4) At a Closed Session, the Chairperson, with the approval of the BZA membership, may invite attendance by any person(s) the BZA believes will contribute to discussion of the matter.

4.1.d Location of Meetings. The meetings shall be held in Town Hall Council Chambers (unless otherwise noted on posted agenda). The meeting place may be moved, provided all concerned have been notified of the alternate meeting place at least three (3)

working days prior to the date of the scheduled meeting. The alternate meeting place shall be noted on the posted agenda for such meeting. A log will be maintained of dates, time of notification and name of the person notified of such alternate meeting place, as deemed appropriate by the Chairperson.

4.1.e Cancellation of Meetings. A regular or special meeting may be canceled when there is no business to be brought before the BZA. The cancellation may be called by the Chairperson in consultation with the Town Manager or his designee, with notification to all concerned not less than three (3) working days prior to the scheduled opening of the meeting.

4.1.f Attendance at Meetings. All voting and non-voting members of the BZA are expected to attend all regular business meetings and special called meetings of the BZA unless excused. The determination of an excused absence for a valid reason shall be made by the Chairperson, subject to review by the full BZA for an appeal of a determination by the Chairperson that by the Chairperson that a member's absence is not excused. Each member of the BZA who has knowledge of the fact that he/she will not be able to attend any scheduled meeting of the BZA shall notify the BZA Chairperson, Town Manager, or his/her designee at the earliest possible opportunity and in any event prior to 5:00 PM on the date of the meeting.

4.1.g Annual Organizational Meeting. In January of each year, the BZA shall hold an organizational meeting to include but not be limited to the review and approval of the meeting schedule for the next calendar year, establishing administrative priorities, and planning for training opportunities.

4.1.h Annual Meeting with Town Council. The members of the BZA shall meet annually with the Town Council. In March of each year, or as otherwise requested by the Town Council, the BZA shall meet with the Town Council. The BZA shall issue an Annual Report to the Town Council of the activities of the previous Calendar Year. The Annual Report shall be presented in June and include the number of cases reviewed, the number of cases approved in one meeting, the number of cases approved after one or more deferrals, and the number of cases denied. The report shall also include a summary of any notable cases or other issues addressed by the BZA during the previous Calendar Year and any anticipated training needs for the coming year.

4.1.i Site Visits. When necessary, site visits may be made prior to the hearing of a case or cases pending. The Town Manager or his designee shall notify members if a site viewing is required.

4.2 Rules of Procedure. Procedural matters of the BZA will be as stated herein.

4.2.a Notice. Notice of all meetings of the BZA shall be as prescribed by the Town of Dumfries Zoning Ordinance(s) and as required by the Virginia Freedom of Information Act and the State and Local Government Conflict of Interests Act.

4.2.b Roberts Rules of Order. The rules for conducting public meetings of the BZA, which are not otherwise governed by ordinance, regulation, or statute, shall be carried out in accordance with *Robert's Rules of Order, Newly Revised, In Brief*.

4.2.c Quorums and Actions. A quorum shall consist of a majority of the members of the BZA. The vote of a majority of those members present shall be sufficient to decide matters brought before the BZA, provided a quorum is present.

- 1) If the BZA fails to establish quorum for a meeting, the Recording Secretary shall enter in the minute book the names of the members present and the adjournment for want of a quorum.
- 2) The temporary absence from the meeting room of members sufficient to constitute a quorum shall not be deemed to prevent the hearing of presentations or the discussion of matters.
- 3) In the absence of a quorum, no official actions shall be taken by the BZA or its standing and special committees.
- 4) No action of the BZA or its standing and special committees shall be valid unless authorized by a majority vote of those present and voting.
 - i. At the request of any BZA member, the Chairperson shall restate the motion or ask another BZA member to do so.
 - ii. An action may be reconsidered only upon a motion by a BZA member who voted with the prevailing side on the original vote. A motion to reconsider must be made at the same or immediately subsequent regular meeting.

4.2.d Conflicts. No BZA member shall participate in the decision of any matter in which he/she has a personal, financial, or other interest. Members shall exempt themselves from taking part in the hearing, consideration, or determination of any matter in which the member or any of their immediate family or employer is financially interested. For purpose of this provision, a member has a financial interest if the member, the member's business partner or any organization for which the member or the member's partner is employed or is about to be employed has a financial interest in the matter being considered by the BZA. Immediate family shall be construed to mean close relatives by birth or marriage including siblings, parents, children, in-laws, and any financial dependents. It is the intent of this section to prohibit any and all conduct that would amount to a conflict of interest as defined in any applicable state or local law, rule, regulation, or guideline.

4.2.e Open Forum. Meetings of the BZA shall be open to the public except as provided by the *Virginia Freedom of Information Act*.

4.2.f Order of Business for Regular Meetings. The order of the business of a regular meeting shall be as follows:

- 1) Call to order
- 2) Roll call and acknowledgement of quorum
- 3) Adoption of Agenda
- 4) Approval of minutes of previous meeting
- 5) Approval of Consent Agenda
- 6) Public Comment and presentations to the BZA
- 7) Public hearings on deferred cases
- 8) Public hearings on new cases
- 9) Application or other Agenda items requiring BZA action
- 10) Staff report on administrative approvals
- 11) Workshop sessions with prospective applicants
- 12) Old business
- 13) New business
- 14) Report of committees
- 15) Adjournment

4.2.g Public Hearing Procedure. Procedural rules for public hearings on applications shall be as follows:

- 1) Open public hearing
- 2) Staff presentation
- 3) Applicant presentation
- 4) Public testimony/comments
- 5) Applicant rebuttal
- 6) Questions from BZA members
- 7) Close public hearing
- 8) BZA discussion
- 9) BZA vote to take action or defer
- 10) Advise public of next steps in the process

4.2.h Application Procedures and Appeal Procedures. Procedures to be followed regarding matters brought before the BZA and appeals of BZA decisions shall be as outlined in Chapter 70, Article VIII of the Town Code of the Town of Dumfries.

4.2.i To Set a Consent Agenda. At the beginning of a regular business meeting, the Chairperson may state which cases, if any, are suitable for inclusion on a Consent Agenda, to be approved without discussion.

4.2.j To Rearrange Order of Agenda. The above procedure will normally be observed; however, it may be rearranged by the Chairperson at his discretion for individual items if necessary for the expeditious conduct of business.

4.2.k Voting. Each member of the BZA shall have one (1) vote. The Chairperson may utilize his vote to break a tie. Others as mentioned in section paragraphs 3.4c and 3.7 above shall not have voting privileges on the matters brought before the BZA.

4.3 Role of the Zoning Administrator. The role of the Zoning Administrator as he/she relates to the BZA shall be as determined by the Town Manager with the concurrence of Town Council. At a minimum, the Zoning Administrator shall act as Agent between the BZA and the Town Staff, receive and respond to questions from the BZA and Town Staff, and act as agent to ensure that the actions and recommendations of the BZA are properly and appropriately transmitted to the requisite person, body, or agency.

ARTICLE V. AMENDMENTS

5.1 Meetings. These Bylaws may be amended at any meeting of the BZA at which a quorum is present.

5.2 Notice. Notice of any proposed amendment must be provided to each member in writing at least two (2) weeks prior to the meeting at which a vote will be taken on the proposed amendments.

5.3 Vote Required. An affirmative vote of a majority of the entire membership of the BZA is required to pass any amendment to these Bylaws.

5.4 Town Council Approval. The Town Council must approve any proposed amendments to these Bylaws. Any amendment to the Bylaws will be in full force and effect only after it has

been passed by the BZA and approved by a majority vote of the Town Council. Approval of the Bylaws by both the BZA and the Town Council must be in the form of a Resolution.

ARTICLE VI. ADOPTION

Board of Zoning Appeals:

These By-Laws and/or Amendments thereto have been adopted by the Board of Zoning Appeals on this _____ day of _____, 2018.

Chairperson, Board of Zoning Appeals

Secretary, Board of Zoning Appeals

Town Council:

These By-Laws and/or Amendments thereto have been REVIEWED and APPROVED by the Dumfries Town Council on this 6th day of February, 2018.

Gerald M. Foreman, II
Mayor, Town of Dumfries

Dawn Hobgood
Clerk, Town of Dumfries