



**PLANNING COMMISSION
CITY OF FREDERICKSBURG, VIRGINIA AGENDA
November 13, 2019
7:30 P.M.
COUNCIL CHAMBERS, CITY HALL**

1. Call To Order
2. Pledge Of Allegiance
3. Determination Of A Quorum
4. Declaration Of Conflict Of Interest
5. Approval Of Agenda
6. Public Hearing Items
 - 6.I. Archaeology Ordinance

Documents:

[2019-11-13_REVISIED_PCMEMO_ARCHAEOLOGYORDINANCE.PDF](#)

7. General Public Comments
8. Other Business
 - 8.I. Parking Advisory Committee
 - 8.II. Calendar Change
 - 8.III. Planning Commissioner Comment
 - 8.IV. Planning Director Comment
 - 8.IV.i. Area Plans, Update: 1 And 2 Process Update
 - 8.IV.ii. Bylaws
 - 8.IV.ii.1. Item 8.D.2.

Documents:

[ITEM FILES COMBINED.PDF](#)

- 8.IV.iii. 2019 CIP
- 8.IV.iv. Infill Ordinance Update: Council Initiation
9. Adjournment



MEMORANDUM

TO: Chairman Rodriguez and Planning Commission Members
FROM: Kate Schwartz, Historic Resources Planner
RE: The City of Fredericksburg proposes to amend the Unified Development Ordinance and the Official Zoning Map to designate the Archaeological Preservation Overlay District
DATE: November 8, 2019 (for the November 13, 2019 meeting)

ISSUE

Should the Planning Commission recommend approval of a Unified Development Ordinance (UDO) Text Amendment and a Zoning Map Amendment to adopt the Archaeological Preservation Overlay District and accompanying regulations in order to identify and interpret archaeological resources within the City of Fredericksburg?

RECOMMENDATION

Open the public hearing to permit public comment on the proposed Archaeology Ordinance. Continue the public hearing to the Planning Commission's December 11 meeting to allow for a final review of the proposed program in the context of the Code of Virginia.

BACKGROUND

The Ordinance has been advertised in the newspaper and on the City's website for public hearing on November 13. The Ordinance was advertised as a UDO Text Amendment and Zoning Map Amendment to establish an Archaeological Preservation Overlay District over the entire city. During preparation for the public hearing, a question arose regarding whether it was more appropriate to codify the Ordinance as a general text amendment rather than an Overlay District over the entire city. Making that change would require re-advertisement in the newspaper and on the City's website. A conclusion on this question is still under review. At this time, the Planning Commission should open the public hearing to let any interested parties speak and continue the public hearing to their meeting in December. This will allow for finalization of the Ordinance, re-advertisement of the public hearing, and consideration of the Ordinance by the Planning Commission. The draft Ordinance is attached for preliminary review.

STATUTORY AUTHORITY

The 2017 City Council Priorities include "Priority #20: Complete the Archaeology Ordinance." For a number of years, the City Council has supported the creation of an archaeology ordinance as the most

comprehensive methodology for protecting and investigating archaeological resources throughout the city. Several working groups have advanced this initiative over the years, and the most recent archaeology working group began meeting in January 2017. The draft regulations and proposed Archaeological Preservation Overlay District were developed by this group after extensive work to study best practices and sample ordinances, consult with cultural resource professionals, and conduct an evaluation of the City's archaeological potential. This proposal creates the structure for a citywide archaeology program and creates a process for archaeological investigation in coordination with land development activities.

Chapter 8 of the 2015 Comprehensive Plan, "Historic Preservation," states that, "Fredericksburg's archaeological resources are an integral part of the City's history," and that, "Archaeological sites, when properly excavated, can provide information that contributes to the general history of the community and to the particular histories of its inhabitants." Chapter 8 identifies the creation of a program "that will identify and protect Fredericksburg's archaeological resources" as a key step in implementing the City's long-term goals for historic preservation and an active downtown community. The ordinance is further supported by Issue 1, Goal 2 of the 2010 Historic Preservation Plan which seeks to "establish controls to assure archaeological sites and subsurface materials are properly identified, evaluated, and mitigated prior to excavation projects throughout the city." The adoption of archaeological preservation regulations is supported by Virginia Constitution Article 11, and authorized by Virginia Code §15.2-2306.

ARCHAEOLOGICAL PROGRAM GOALS

Fredericksburg is a city that recognizes the value of its heritage both as an economic driver and a public benefit that gives the community unique character. Fredericksburg's many historic buildings are readily visible and the City has a clear structure in place for ensuring their protection. Alternatively, archaeological resources, by their very nature, are not visible and can easily be overlooked. Through this archaeological program, the City seeks to identify and protect these places in order to enhance Fredericksburg's historical record and disseminate these discoveries to the public.

The study of archaeology allows for an understanding of history not available from any other source. The majority of recorded history and many places designated as historically significant focus on the lives and achievements of elite citizens or well-known events. There are significant gaps in the understanding of the lives of ordinary people, especially groups that have been traditionally marginalized, and certain periods of history. Archaeology, in the investigation of daily life in a great variety of contexts, provides access to history beyond the scope of written record-keeping.

Through the archaeological program, the City will encourage the identification and recording of archaeological resources, the avoidance of sites where possible and, if unavoidable, the excavation and recovery of information. Avoidance is prioritized because this action preserves sites for future generations when technology and the ability to learn from these places has presumably advanced. When avoidance is not feasible, the goal is to extract information from the site through excavation and accompanying research. Once a site is disturbed, its information potential is permanently destroyed, so capturing this information through formal investigation is vital.

Communicating the information learned from archaeological sites to the public is integral to this program and dovetails with a number of other initiatives. The City is currently engaged in a process to tell a more comprehensive story of Fredericksburg's African American history. Details of the lives of Fredericksburg's black residents have often been excluded from the city's historical narratives or have been filtered through white historians. Archaeological sites can provide a direct reference point to the stories of black community members and become primary source material where traditional research resources are lacking. Archaeological research is similarly valuable in understanding the history of Native Americans, women, immigrant groups, and other underrepresented facets of the city's past. Interpretation will be incorporated as sites are investigated and developed, and will advance the City's heritage tourism efforts and contribute to Fredericksburg's unique sense of place. The investigations conducted will shape the public education initiatives, and the program will refine over time as more places are studied.

The extent of archaeological study for all projects will be determined based on established research priorities. The goal of the program is not simply to dig every site, but rather to enhance the understanding of specific periods of history. At times, the most valuable course of action is simply to preserve a site in place for future study. The current priorities for research include underrepresented populations, such as African Americans, women, Native Americans, and immigrant groups; as well as underrepresented periods of history. Some of these topics and periods include the Reconstruction period, the history of urban slavery, stone quarrying and gold mining in the region, the city's free black community, the canal systems, river-based commerce and shipping, and antebellum domestic life.

PROGRAM DESIGN

The program is structured with the purpose of identifying and investigating archaeological resources in those areas of the City with the highest potential for their existence. The ordinance references the predictive model created for the city and requires evaluation and potential investigation of sites located in areas where archaeological resources are most likely present. The model was developed through a citywide assessment of known archaeological sites and the evaluation of data sources including typical site features, historic maps, and extensive archival research. Accounting for both the prehistoric and historic periods, the model essentially functions as a heat map, and is divided into a range of five probability levels: low, medium-low, medium, medium-high, and high. The ordinance includes regulations for identifying, investigating, and protecting areas in the medium-high and high probability zones in the course of land disturbance.

Two tiers of regulation are included in the proposed ordinance, and these are established based on existing land development review processes. For large-scale projects that require a major site plan, preliminary archaeological survey of areas where land will be disturbed is required. This Phase I survey will be submitted with the major site plan application for administrative review. Further investigation, excavation, or avoidance will be required if a site is determined to be present. Excavation or avoidance will be carefully targeted based on the specific circumstances of the project through a memorandum of agreement, with the goal of coordinating any land disturbance to avoid excessive expense or delay. While avoidance is prioritized where

feasible, this condition would not be used to prevent or substantially alter a design otherwise permitted by the City Code.

For smaller projects that require a minor site plan, residential lot grading plan, or certificate of appropriateness, the application will be evaluated administratively to determine archaeological impacts. If an archaeological site is likely to exist and be impacted by the project, the City will coordinate with the property owner to have professional archaeologists monitor the site during land disturbance. If archaeological resources are found, the City can take up to one week to further study the area before work in that area proceeds. For all evaluation processes, the City will establish an on-call contract with professional archaeologists to ensure qualified reviews.

FISCAL IMPACT

The primary expense for the archaeology program's budget will be on-call archaeological services for evaluation and monitoring; however, public education through annual publication, workshops, exhibits, or other means is vital to the program and central to its purpose. The annual program budget is estimated at \$100,000, but this number will be variable based on the number of projects submitted and reviewed annually. Approximately one-third of the budget will be funded through a 5% fee on all building and development applications and the rest will be funded through the City's general fund.

PROCESS AND PUBLIC ENGAGEMENT

The amendments were initiated by the City Council at its August 13, 2019 meeting. Since that time, City staff has sought to engage with the public and impacted stakeholders. A GIS Story Map is available online to help share information about the program, and includes the predictive model. Meetings have been conducted with the public; the Architectural Review Board; Main Street; and members of the development community in individual meetings, in a larger group, and through the Fredericksburg Area Builders Association. Feedback received has largely been positive, though members of the development community have expressed concerns over the additional costs and time that must be committed to archaeology.

CONCLUSION

The goal of this program is to ensure that Fredericksburg's rich and unique archaeological record is not lost. The knowledge gained will contribute to Fredericksburg's sense of place and continue to define the city as an historical and cultural destination. The policies proposed are intended to balance this value with the needs of those seeking to develop land in the city.

Attachments:

1. Draft Ordinance



MOTION:

SECOND:

[date]
Regular Meeting
Ordinance No. 19-__

RE: Amending the Unified Development Ordinance and Official Zoning Map to add a new overlay zoning district for the preservation and accommodation of archaeological resources.

ACTION: APPROVED; Ayes:0; Nays: 0

First read: _____ **Second read:** _____

It is hereby ordained by the Fredericksburg City Council that City Code Chapter 72, "Unified Development Ordinance," is amended as follows.

I. Introduction.

The purpose of this amendment is to advance the policy of the Commonwealth of Virginia as set forth in Virginia Constitution Article 11, §§1 and 2, to conserve, develop, and utilize the historical sites of the Commonwealth through the preservation and accommodation of archaeological resources, as authorized under Code of Virginia §15.2-2306. In addition, this ordinance advances the City's goal of establishing an archaeological program, as stated in the 2015 Comprehensive Plan, Chapter 8, "Historic Preservation," the City's Historic Preservation Plan, and the City Council's Goals and Initiatives for 2016-2018. This ordinance is the result of work accomplished through the City's archaeological working group which was created by City Council in late 2016.

The City Council adopted a resolution to initiate this text and map amendment at its meeting on August 13, 2019. The Planning Commission held its public hearing on the amendment on _____, after which it voted to recommend the amendment to the City Council. The City Council held its public hearing on this amendment on _____.

In adopting this ordinance, City Council has considered the applicable factors in Virginia Code § 15.2-2284. The City Council has determined that public necessity, convenience, general welfare and good zoning practice favor the requested rezoning.

II. City Code Amendment.

City Code Chapter 72, "Unified Development Ordinance," is amended as follows:

1. Section 72-34, "Overlay Zoning Districts," shall be amended by adding a new section 72-34.8, "Archaeological Preservation District," as follows:

Sec. 72-34.8 Archaeological Preservation District.

- A. Purpose and intent. The Archaeological Preservation District is established for the purpose of identifying, evaluating, preserving, excavating, and interpreting archaeological resources located within the City of Fredericksburg during the process of land development in order to promote the general welfare, education, and economic well-being of the City and to disseminate archaeological and historical data.
- B. District boundaries. The district boundaries encompass areas within the City that have special public value because of the probable presence of notable archaeological features relating to the cultural heritage of the City, of such significance as to warrant preservation in place or, if not achievable, professional archaeological excavation. The district map shows areas with either a medium-high or high priority, as shown on the predictive model used by the City to define the district. The boundaries are shown on the City's official zoning map as an overlay zoning district.
- C. Administration. The implementation of district standards takes place during the administrative review of a major or minor site plan, residential lot grading plan, or certificate of appropriateness. Thus, the Zoning Administrator is authorized to administer the requirements of this district. The administrator shall consult with qualified City staff meeting the Secretary of the Interior's Professional Qualification Standards or, to the extent funds are appropriated for this purpose, with a qualified archaeologist, as needed for the enforcement of district regulations.
- D. Archaeological investigations and surveys. The reports and field surveys required for development within this district shall conform to the criteria established in the Guidelines for Conducting Historic Resources Survey in Virginia published by the Virginia Department of Historic Resources (DHR).
- E. Significance of archaeological resources. Determinations of the significance of archaeological resources shall be made on the following criteria:
1. Research value. The extent to which the archaeological data that might be located in the development area would contribute to the expansion of knowledge of that type of resource.
 2. Rarity. The degree of uniqueness of the resources in the development area and their potential for providing archaeological information about a person, building, structure, event, or historical process, for which there are few examples in the Fredericksburg area.
 3. Public value. The level of importance that archaeological resources in the development area possess due to association with a significant person, building, structure, event or historical process.

4. Site integrity. The extent to which soil stratigraphy and original placement and condition of archaeological resources in the development area have not been disturbed or altered in a manner which appreciably reduces their research or public value.
 5. Presence of materials. The extent to which archaeological resources or evidence of historic buildings or structures are present in the development area.
 6. Impact upon resources. The extent to which any proposed land-disturbing activities will alter or destroy archaeological resources which have archaeological data potential.
- F. Developments requiring major site plan approval. A reconnaissance (Phase IA) report shall be required for any development that requires major site plan approval. The developer shall submit the report for review with the major site plan application. In the alternative, the developer may begin the application process with a Phase IB, II, or III study.
1. The reconnaissance report process shall be completed by an archaeologist.
 2. Tasks included in the reconnaissance study shall include a background literature and records review at the City of Fredericksburg and DHR, archival research as appropriate, field study, and preparation of a report.
 3. Associated field studies shall include a visual inspection of the property including documentation through photography, written notes, and mapping.
 4. The archaeologist shall perform limited subsurface investigation as part of the reconnaissance when he or she deems necessary. In those instances, the following standards apply: (a) excavation shall include a minimum of two judgmentally placed shovel test pits to assess soil integrity and the potential for intact archaeological deposits; (b) shovel test pits shall be no smaller than 15 inches in diameter, excavated at intervals no greater than 50 feet, and will continue to sterile subsoil, if possible; (c) all soils from shovel test pits must be screened through one-fourth inch hardware cloth and all materials retained for analysis. Recovered artifacts are the property of the landowner and will be returned upon completion of analysis.
 5. Data gathered during the background review, archival research, and field study shall be incorporated in a report that meets the DHR's guidelines for technical documents. The report shall be reviewed by an individual meeting the Secretary of the Interior's Professional Qualification Standards as part of the major site plan application through the process set forth in §72-26.1(C).
 6. If the Zoning Administrator finds, after review of the reconnaissance report, that an archaeological site does not exist or that no significant archaeological resources will be adversely affected by the development, the major site plan application may proceed through the remainder of the review process.

7. When the Zoning Administrator finds, after review of the reconnaissance report, that an archaeological site may exist and that significant archaeological resources may be adversely affected by the development, the Zoning Administrator shall request an identification-level survey (Phase IB) accompanied by archival research, as needed, as provided in §72-26.1(D)(1). The identification-level survey shall meet DHR guidelines for archaeological studies and include one of the following subsurface studies as approved by the Zoning Administrator: a) the excavation of systematic shovel test pits at a maximum of 50-foot intervals; b) the excavation of systematic shovel test pits using a close-interval grid (10- or 25-foot intervals); c) the excavation of backhoe trenches in areas with the potential to contain features; or d) the excavation of sample test units. Soils removed during the fieldwork shall be screened through one-fourth inch mesh as meets state guidelines, and all artifacts shall be analyzed. The results of the archival research and fieldwork shall be included in an identification-level report and submitted to the Zoning Administrator for review.

8. If the Zoning Administrator finds, after review of the identification-level (Phase IB) archaeological field survey, that an archaeological site exists and is likely to be significant, and that the project will adversely impact the site, then he or she may require the applicant to submit Phase II evaluation testing or Phase III data recovery, as appropriate.
 - a. The major site plan shall incorporate mitigation measures to preserve or accommodate archaeological resources, such as avoidance or recovery, reduction in the size or scope of land-disturbing activities, or the implementation of other mitigation measures as recommended by the archaeologist, to the degree possible.

 - b. Should avoidance not be achievable, a memorandum of agreement shall be crafted to outline the steps required to meet this ordinance. The memorandum of agreement shall be prepared in accordance with DHR procedures, and the Zoning Administrator and the landowner shall be signatories on the ensuing document.

 - c. The Zoning Administrator may approve the major site plan application before the completion of the required Phase II or Phase III investigations, only if feasible and consistent with the purposes of the district and upon ratification of the memorandum of agreement.

9. If unexpected archaeological resources are discovered on the development site after approval of the major site plan without the imposition of appropriate mitigation measures, then the Zoning Administrator shall issue an order to cease and desist all development activity in the affected area for up to seven days in order to develop and implement mitigation measures that meet the criteria in section (b).
- G. Developments that require a minor site plan, residential lot grading plan, or certificate of appropriateness. Upon receipt of an application for a development that requires a minor site plan, residential lot grading plan, or certificate of appropriateness, within an area of the district designated as medium-high or high priority, the Zoning Administrator shall evaluate the development to determine if an archaeological site is likely to exist and if significant archaeological resources may be adversely affected by the development. The Zoning Administrator is authorized to monitor the site during approved land-disturbing activities. If the Zoning Administrator identifies archaeological resources, then he or she shall issue an order to cease and desist all development activity in the affected area for up to seven days in order to evaluate the deposits and develop and implement mitigation measures that meet the criteria in subsection 8(a).
- H. Exempt developments. A development approved through the compliance process for Section 106 of the National Historic Preservation Act shall be exempt from review under this section.

2. Section 72-84, "Definitions," is amended as follows:

ARCHAEOLOGICAL RESOURCE shall include human remains and objects, such as tools, bottles, dishes, flora and fauna, artifacts, features or ecofacts of prehistoric American Indian and historic American periods, that can reveal information on past lifeways, and areas which contain these objects such as graves, wells, privies, trash pits, cellars, kilns, basements, foundations, postholes, ditches, trenches, historic roadways or archaeological sites.

ARCHAEOLOGICAL SITE means the physical remains of any area of human activity greater than fifty years of age for which a boundary can be established. Examples of such sites include domestic/habitation sites, campsites, industrial sites, earthworks, mounds, quarries, canals, and roads.

ARCHAEOLOGIST means one who meets the United States Secretary of the Interior's Professional Qualification Standards for archaeology.

SEC. III. Effective Date.

This ordinance is effective immediately.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Approved as to form:

Kathleen Dooley, City Attorney

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 19- duly adopted at a meeting of the City Council meeting held Date, 2019 at which a quorum was present and voted.

Tonya B. Lacey, CMC
Clerk of Council



MEMORANDUM

TO: Planning Commission Members
FROM: Chuck Johnston, Director, Community Planning and Building Department
RE: Discussion of Planning Commission Bylaw changes regarding the Status of Land Use Planning Annual Report and the annual review of the City's proposed Capital Improvements Plan.
DATE: 2019 November 1 (for the November 13 meeting)

ISSUE

Shall the Planning Commission Bylaws be amended to provide for a more efficient and effective process for the Commission's review of the Status of Land Use Planning Annual Report and the annual proposed Capital Improvement Plan?

RECOMMENDATION

Approve a motion giving notice of intent to amend the Commission By-laws at the Commission's December 11th meeting, per By-laws Article 8, Amendments.

BACKGROUND

As stated in Virginia Code Sections 15.2-2221 and 15.2-2239 (attached), there is to be a status of planning annual report and the Commission may review the city's annual Capital Improvement Plan. The proposed changes are shown on pages 3, 4, 5, and 6 of the attached By-laws and involve recodifying the text for a more appropriate order.

The proposed changes would move the deadline for staff submission to the Commission of the annual report to October 1st. In addition, the changes provide for a joint work session with City Council in October to discuss the information and findings in the report.

The changes also shift the deadline for recommendations on the following fiscal year's capital improvement plan to the first Commission meeting in December. The text is intended to clarify that the Commission would not make its recommendations based on a proposed CIP from the City Manager, which is not available until March, but would be based on the Comprehensive Plan, the annual report, and the current CIP. By submitting its recommendations in early December, the timing of the Commission's proposals would be aligned with the City's budget development process and be a significant contribution to the formation of a proposed CIP by the City Manager and budget staff.

BY-LAW AMENDMENT PROCESS

The Commission's By-laws may be amended by a majority vote of the entire membership of the Commission at a regularly scheduled meeting, provided notice of intent to amend these By-laws has been given at a prior regularly scheduled meeting by at least two members.



CITY OF FREDERICKSBURG, VIRGINIA

PLANNING COMMISSION BY-LAWS

PREAMBLE- These by-laws set forth the rules for the transactions of business by the Planning Commission of the City of Fredericksburg, which operates under the authority of the laws of Virginia and the ordinances of the City of Fredericksburg.

ARTICLE 1 - OBJECTIVES

1-1 The Planning Commission, as established by the City Council, has adopted the subsequent Articles in order to facilitate its powers and duties under Title 15.2, Chapter 22, Article 2, Code of Virginia.

1-2 The official title of this Commission shall be the City of Fredericksburg Planning Commission.

ARTICLE 2 - MEMBERS

2-1 The Fredericksburg Planning Commission consists of seven members appointed by the City Council, all of whom are residents of the City, qualified by knowledge and experience to make decisions on questions of community growth and development, and at least one-half of whom are owners of real property.

2-2 The members are appointed for terms of four years. Commission members may not serve more than two (2) consecutive full terms. Interpretation: The first term, if less than a regular term, shall not be counted. (*In accordance with the Policies and Procedures Manual of the City Council, Section 2-5 Two-Term Limit.*)

Any vacancy in membership is filled by appointment by the City Council and will fulfill the unexpired term of the member being replaced.

2-3 All members of the Planning Commission shall register to complete the Virginia Certified Planning Commissioner's Program within one year from the time of appointment. The cost of attending shall be borne by the City.

ARTICLE 3 - OFFICERS

- 3-1 A Chairman, Vice-Chairman, and Secretary shall be elected during the first regular meeting in October of each year.
- 3-1-1 Each candidate for office shall be nominated by a member and seconded by another member of the Commission.
- 3-1-2 A nominee for an office of the Commission receiving a majority vote of the members present shall be declared elected and shall take office immediately upon the conclusion of the regular meeting and serve for one year or until his/her successor shall take office.

ARTICLE 4 - DUTIES OF OFFICERS

- 4-1 The Chairman shall:
- 4-1-1 Preside at all meetings.
- 4-1-2 Call the meetings to order at the appointed time;
- 4-1-3 Announce the business in its proper order;
- 4-1-4 Preserve order and decorum;
- 4-1-5 Clarify and summarize points of agreement and disagreement for all questions properly brought before the Commission;
- 4-1-6 Rule on all procedural questions, unless overruled by a majority vote of the members present;
- 4-1-7 Be informed immediately of any official communication and report the same at the next regular meeting;
- 4-1-8 Affix his/her signature to all correspondence issued by the commission and all official minutes;
- 4-1-9 Appoint committees as necessary;
- 4-1-10 Ensure new members are fully briefed on Commission policies and procedures and familiarized with Commission meeting places.

- 4-2 The Vice Chairman shall act in the absence of the Chairman and in doing so shall have all duties of the Chairman
- 4-3 The Secretary or the Planning Department staff shall:
 - 4-3-1 Keep a written record of all business transacted by the Commission;
 - 4-3-2 Notify all members of all meetings;
 - 4-3-3 Keep a file of all official records and reports of the Commission;
 - 4-3-4 Attend to correspondence of the Commission;
 - 4-3-5 Provide public notice of all meetings and public hearings;
 - 4-3-6 Keep a set of minutes of all meetings;
 - 4-3-7 Maintain Commission records according to applicable statutes and make them available for public inspection;
 - 4-3-8 Prepare an Annual Report to the City Council concerning the operation of the Commission and the status of planning within the City, as provided for in Virginia Code Section 15.2-2221. Planning staff shall prepare and submit such a report, in writing, to the Commission by October 1 of each year. The report shall include statistics on land use development during the preceding fiscal year, enforcement activities, and the implementation of recommendations set forth in the Comprehensive Plan. As agreed to by City Council, the Commission should present this report to City Council for discussion at a joint Council/Commission work session October of each year.
- 4-4 All members of the Planning Commission shall:
 - 4-4-1 Take responsibility to become thoroughly familiar with applicable laws, statutes, ordinances, and procedures relating to the Commission;
 - 4-4-2 Vote on matters coming before the Commission unless formally excused due to a conflict-of-interest, or with the permission of the majority of the members of the Commission then in session.
 - 4-4-3 Review applications presented at meetings they were unable to attend as well as minutes of those meetings, as practicable, before voting on such applications.

ARTICLE 5 – CAPITAL IMPROVEMENT PLAN

5-1 As provided for in Virginia Code Section 15.2-2239, the Commission shall recommend to City Council and the City Manager the projects that pertain to land use policies and goals in the Comprehensive Plan that should be included in the City's Capital Improvement Plan (CIP) proposed for the next fiscal year, as well as planned for the following five years. To prepare these recommendations, the Commission should review the Comprehensive Plan, the annual report, and the CIP for the current fiscal year. This recommendation should be made by the first Commission meeting in December. Upon receipt of the City Manager's proposed CIP, the Commission should hold a public hearing at its second meeting in March. The Commission should make a recommendation to the Council on the proposed CIP by its first meeting in April.

[Article 5 and all subsequent sections will be renumbered.]

ARTICLE 5 - MEETINGS

- 5-1 When applications or other Commission business are pending, regular meetings of Commission shall be held the second and last Wednesday of each month. If a scheduled meeting is cancelled due to inclement weather, or other unforeseen reason, the backup meeting date will be the following regularly scheduled Planning Commission meeting date and time.
- 5-2 When a meeting falls on a legal holiday, the meeting shall be held on the following Wednesday unless otherwise designated by the Chairman or by a vote of the Commission.
- 5-3 When no application or other business is pending, the Chairman may dispense with a meeting by giving notice to all members. However, the Commission shall hold at least one regular meeting at least every two months.
- 5-4 The meetings shall begin at 7:30 p.m. on the second and last Wednesday of a month.
- 5-5 A regular meeting may be adjourned if all business cannot be addressed on the meeting date set. The meeting shall be reconvened at a later date, as set at the meeting and properly advertised.
- 5-6 Special meetings may be called at the request of the Chairman or by two members of the Commission with a written request to the Secretary. The Secretary shall e-mail to all members, at least five days in advance of a special meeting, a written notice fixing the time and place of the meeting and the purpose thereof. Written notice of a special meeting is not required if the time of the special meeting has been fixed at a

regular meeting, or if all members are present at the special meeting or file a written waiver of notice.

- 5-7 A member, other than the Chairman, may introduce a motion. Any member of the Commission may second a motion. Motions shall be restated by the Chairman before a vote is taken. The names of persons making and seconding motions shall be recorded.
- 5-8 Parliamentary procedure during Commission meetings shall be governed by Robert's Rules of Order.
- 5-9 A quorum of the Commission shall consist of four of the seven members, and no action of the Commission shall be valid unless authorized by a majority vote of those present and voting.
- 5-10 A member of the Planning Commission who cannot attend a meeting in person due to an emergency or personal matter may participate by electronic communications means from a disclosed off-site location, up to two times per calendar year.

If a quorum is physically present to conduct a meeting of the Planning Commission other members may participate in such meeting from a remote location by telephone or other audio or video means, provided such attendance complies with the provisions of the Virginia Freedom of Information Act, as amended from time to time. A member wishing to attend in this manner shall advise a member of the Planning staff a reasonable time before the start of the meeting, so that the necessary equipment can be put in place.

- 5-11 There will be a general public comment period provided at each regular meeting for comments by citizens regarding any matter related to Commission business that is not listed on the Agenda for Public Hearing. The Chair will request that speakers observe the three-minute time limit and yield the floor when the Clerk indicates that their time has expired. No dialogue between speakers will be permitted.
- 5-12 A member recusing himself from discussing and voting on an agenda item due to a conflict of interest, shall vacate his seat during the hearing of that agenda item.

~~5-13 In October of each year, the Chair shall invite the City manager to brief the Commission on the City's adopted Capital Improvements Plan (CIP or Plan) and the status of potential changes to the Plan for the next fiscal year. By December 1, the Commission shall review this information and provide suggestions, based on the Comprehensive Plan and extending for a period not to exceed five years in accordance with Virginia Code Section 15.2-2239, for his consideration in preparing his proposed CIP for the next year. Upon receipt of the City Manager's CIP proposal~~

~~for the next year, the Commission shall hold a public hearing and submit a report and recommendation to the Council on the proposed CIP, not later than the following April 30.~~

~~5-14 Not later than December 1 of each year, the Commission shall make recommendations and an annual report to the Council concerning the operation of the Commission and the status of planning within the City. The report shall include statistics on land use development during the preceding fiscal year, enforcement activities, and the implementation of recommendations set forth in the Comprehensive Plan.~~

ARTICLE 6 - - ORDER OF BUSINESS

6-1 The order of business for a regular meeting shall be:

6-1-1 Call to order and determination of a quorum;

6-1-2 Pledge of Allegiance;

6-1-3 Adoption of minutes;

6-1-4 Hearing of public hearing items;

6-1-5 Unfinished Business;

6-1-6 New Business;

6-1-7 General Public Comment

6-1-8 Comments from the Commission;

6-1-9 Comments from the Staff;

6-1-10 Adjournment.

ARTICLE 7 - PROCEDURES FOR HEARING ITEMS

7-1 The order for the public hearing shall be:

7-1-1 A staff presentation on each item prior to the applicant’s comments.

7-1-2 The applicant or his representative may appear at the public hearing and shall be allowed to make a statement and/or presentation.

- 7-1-3 Any person may speak at a public hearing for up to five minutes. An applicant in a land use case may give an opening presentation of the case for up to 15 minutes, regardless of the number of speakers the applicant chooses to give the presentation, and may give a response, after all citizens have spoken, for up to five minutes, regardless of the number of speakers the applicant chooses to give the response. . The Chairman may suspend these rules in order to adapt them to any special situation.
- 7-1-4 Before addressing a Planning Commission meeting, a Commission member desiring to speak shall address the Chairman, who shall recognize the member as entitled to speak before he proceeds. After being so recognized, the member, except when called to order by the Chairman shall not be interrupted during the time allowed. No member shall speak more than ten minutes at any one time without permission of the Chairman. No member shall speak more than twice upon the same question without permission of the Chairman.
- 7-1-5 When public testimony is complete, the Chairman shall then close the public hearing and the Planning Commission shall deliberate on the application and its recommendation to the City Council. Only input from the staff shall be permitted at this time, although the Commission may ask questions of the applicant or his representative. No further comments from the public will be allowed.
- 7-1-6 The Commission may vote on an agenda item immediately following the public hearing if there is a positive staff recommendation and there are no relevant negative comments from the public and no outstanding questions or requests for information.

ARTICLE 8 - AMENDMENTS

These by-laws may be amended by a majority vote of the entire membership of the Commission at a regularly scheduled meeting, provided notice of intent to amend these by-laws has been given at a prior regularly scheduled meeting by at least two members.

Rene Rodriguez, Chairman

ADOPTED: [date]

REVISED AND ADOPTED BY A VOTE OF: [vote]

Code of Virginia

§ 15.2-2221. Duties of commissions.

To effectuate this chapter, the local planning commission shall:

1. Exercise general supervision of, and make regulations for, the administration of its affairs;
2. Prescribe rules pertaining to its investigations and hearings;
3. Supervise its fiscal affairs and responsibilities, under rules and regulations as prescribed by the governing body;
4. Keep a complete record of its proceedings; and be responsible for the custody and preservation of its papers and documents;
5. Make recommendations and an annual report to the governing body concerning the operation of the commission and the status of planning within its jurisdiction;
6. Prepare, publish and distribute reports, ordinances and other material relating to its activities;
7. Prepare and submit an annual budget in the manner prescribed by the governing body of the county or municipality; and
8. If deemed advisable, establish an advisory committee or committees.

Code 1950, § 15-963.7; 1962, c. 407, § 15.1-444; 1997, c. 587.

Code of Virginia

§ 15.2-2239. Local planning commissions to prepare and submit annually capital improvement programs to governing body or official charged with preparation of budget.

A local planning commission may, and at the direction of the governing body shall, prepare and revise annually a capital improvement program based on the comprehensive plan of the locality for a period not to exceed the ensuing five years. The commission shall submit the program annually to the governing body, or to the chief administrative officer or other official charged with preparation of the budget for the locality, at such time as it or he shall direct. The capital improvement program shall include the commission's recommendations, and estimates of cost of the facilities and life cycle costs, including any road improvement and any transportation improvement the locality chooses to include in its capital improvement plan and as provided for in the comprehensive plan, and the means of financing them, to be undertaken in the ensuing fiscal year and in a period not to exceed the next four years, as the basis of the capital budget for the locality. In the preparation of its capital budget recommendations, the commission shall consult with the chief administrative officer or other executive head of the government of the locality, the heads of departments and interested citizens and organizations and shall hold such public hearings as it deems necessary.

Localities may use value engineering for any capital project. For purposes of this section, "value engineering" has the same meaning as that in § [2.2-1133](#).

Code 1950, § 15-966; 1962, c. 407, § 15.1-464; 1975, c. 641; 1976, c. 650; 1996, c. [553](#); 1997, c. 587; 2006, c. [565](#); 2011, c. [658](#).