

ORDINANCE NO. 18-04

AMENDED AND RESTATED ORDINANCE ESTABLISHING THE TOWN OF MIDWAY  
PLANNING AND ZONING BOARD AND BOARD OF ADJUSTMENT

**Preamble**

This ordinance amends and restates Ordinance No. 08-05 and Ordinance No. 13-\_\_\_\_\_.

**Appointment and Organization of the Planning and Zoning Board and Board of Adjustment**

- (a) A town Planning and Zoning Board for the Town of Midway is hereby created under the authority of N.C.G.S. § 160A-361.
- (b) Pursuant to the provisions of N.C.G.S. § 160A-388(a), those serving on the Planning and Zoning Board shall also serve as the Board of Adjustment (the "BOA")
- (c) The Planning and Zoning Board and Board of Adjustment shall each consist of five (5) members and one (1) alternate. All members and the alternate shall reside within the town. All members of each board shall be appointed by the Town Council. All members of each board shall serve staggered terms of three (3) years so as to ensure that all seats do not come up for appointment or reappointment in the same year. All members, with the exception of the alternate member, shall have equal rights, privileges and duties. When a member of a Board is absent from a meeting, the alternate member shall have all the rights, privileges, and duties of a member of the Board. Members shall not hold any other official municipal government position or office; notwithstanding the foregoing clause, members may serve on both the Planning and Zoning Board and the Board of Adjustment. Members are eligible for reappointment.
- (d) The initial staggering of terms shall be as follows:
- Terms to expire in March 2018:  
Seats currently held by Jamie Hester, Lee Ann Thomas, and Charles Waddell
- Terms to expire in March 2019:  
Seats currently held by James Wayne Smith, Carl Tuttle, and the alternate member.
- (e) Members of the boards may receive compensation for service as provided from time to time by town council policy. A member may be removed by from the boards by the member's respective appointing authority if the member fails to attend at least 70% of all required meetings, misses three (3) or more consecutive meetings or for other cause. Vacancies occurring other than through expiration of term shall be filled as soon as is reasonably possible after such vacancy occurs by the proper public body making the appointment and such appointment shall be for only the period of the unexpired term.

## **Organization and Rules**

(a) Each board shall have a Chairman and Vice-Chairman. In March of every year, each board shall elect a Chairman and Vice-Chairman from among the appointed members of each board and create and fill such other offices as they may determine and as may otherwise be required. The Chairman of the Planning and Zoning Board may vote only in the event of a tie. The Chairman of the Board of Adjustment shall have full voting privileges. The term of office for the Chairman and Vice Chairman shall be one (1) year. The Planning and Zoning Board/BOA shall meet at least once per month and be open to the public. Each Board shall adopt rules for the transaction of business and keep a permanent record of all resolutions, findings and determinations. The person acting as Chairman of a board is authorized to administer oaths to any witnesses as may be required in any matter coming before the Board.

## **Powers and Duties of the Planning and Zoning Board**

(a) It shall be the function and duty of the Planning and Zoning Board to perform those duties as set out in the Town's Zoning Ordinance and to make, adopt, and administer a suggested master plan for the physical development of Midway or modify parts of such plan as the Planning and Zoning Board and Town Council may deem necessary and appropriate. Such plan, with the accompanying maps, plans, charts and descriptive matter may show the Planning and Zoning Board's recommendations for the development of said territory, including among other things, the general location, character, and extent of streets, bridges, parkways, playgrounds, parks, aviation fields and other public ways, grounds and open spaces, the general location of public buildings and other public property, and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes; also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities, or terminals, as well as a zoning plan for the control of the height, area, bulk, location and use of buildings and premises. The Planning and Zoning Board may from time to time recommend amendments, extensions or additions to the plan.

(b) In the preparation of such plan or modified plan or parts thereof, the Planning and Zoning Board shall make careful and comprehensive surveys and studies of present conditions and future growth of Midway and with due regard as its relation to neighboring territory. The plan shall be made with general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the town and its environs which will, in accordance with present and future needs, best promote health, safety, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development, including among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient

expenditure of public funds, and the adequate provision of public utilities and other public requirements.

(c) Before the adoption by the Planning and Zoning Board of the plan or any such part, amendment, extension or addition of the board shall hold at least one public hearing thereon. The Planning and Zoning Board shall have power to promote public interest in and understanding of the plan and to that end may hold public hearings, publish and distribute copies of the plan or of any report and may employ such other means of publicity and education as it may determine. Individual members of the Planning and Zoning Board, when duly authorized by the Planning and Zoning Board, may attend town planning conferences or meetings. The town may pay any reasonable traveling expenses incident to said attendance upon approval by the town council. All officers or employees of the town shall render such reasonable assistance and any such information to the board as may be requested by the board for its work.

### **Power and Duties of the Board of Adjustment**

(a) The Board of Adjustment shall have the following powers and duties, subject to the provisions of N.C.G.S. § 160A-388:

(i) To hear and decide special and conditional use permits, requests for variances, and appeals of decisions of administrative officials charged with enforcement of this ordinance and the Town's Zoning Ordinance. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances and special and conditional use permits.

(ii) To hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development.

### **Notices**

(a) Notice of hearings of the Board of Adjustment conducted pursuant to N.C.G.S. § 160A-388 shall be given as provided in N.C.G.S. § 160A-388(a2).

### **Appeals**

(a) Appeals to the Board of Adjustment shall be governed by N.C.G.S. § 160A-388(b1).

### **Special and Conditional Use Permits**

(a) The consideration by the Board of Adjustment of requests for special and conditional use permits shall be governed by N.C.G.S. § 160A-388(c)

### **Variations**

(a) The consideration by the Board of Adjustment of requests for variances shall be governed by N.C.G.S. § 160A-388(d).

**Voting**

(a) Voting by the Board of Adjustment shall be governed by N.C.G.S. § 160A-388(e).

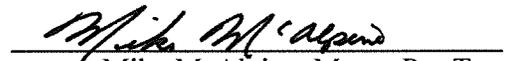
**Saving Clause**

(a) If any chapter, section or other portion of these regulations is found to be invalid by duly constituted authority, it shall not affect the validity of the balance of these regulations.

(b) To the extent that any provision of this ordinance conflicts with the provisions of N.C.G.S. § 160A-388, the provisions of that statute will control.

This the 2 day of October, 2017.

  
Linda A. Hunt, Town Clerk

  
Mike McAlpine, Mayor Pro Tem