



**TOWN OF MIDWAY
PLANNING & ZONING BOARD MINUTES
TUESDAY, MARCH 29, 2022**

**MINUTES OF MIDWAY PLANNING & ZONING BOARD MEETING HELD ON TUESDAY,
MARCH 29, 2022 AT 5:00 P.M. AT MIDWAY TOWN HALL, 426 GUMTREE ROAD, MIDWAY,
NORTH CAROLINA**

CALL TO ORDER

Chairman James Smith called the meeting to order.

Planning & Zoning Board members present were: Charles Waddell, Paula Hill, James Smith, Jamie Hester, and alternate member Richard Miller. Absent: Carl Tuttle.

Town Manager Tammy Michael, Town Clerk Linda Hunt, Deputy Clerk Tammy Robertson, Davidson County Zoning Administrator Lee Crook, and Davidson County Zoning Officer Josh Tussey were present. Town Attorney Jim Lanik participated via telephone.

APPROVAL OF MINUTES

On motion by Board member Jamie Hester, seconded by Board member Paula Hill, the Board voted unanimously to approve the February 22, 2022 minutes as presented.

ADOPT AGENDA

On motion by Board member Charles Waddell, seconded by Board member Paula Hill, the Board voted unanimously to adopt the agenda as presented.

PUBLIC COMMENT PERIOD

There were none.

REGULAR BUSINESS

REVIEW DRAFT ORDINANCE – TOWN OF MIDWAY FREE RANGE FOWL ORDINANCE

At the Planning Board meeting held on February 22, 2022, Planning Board members discussed options and potential regulations to be included in an ordinance preventing free range fowl in the Town of Midway.

There was discussion on whether to adopt a stand-alone ordinance to regulate the keeping of poultry or small farm animals or to include the regulation as a text amendment to the Town's Zoning Ordinance. The stand-alone ordinance would have to be enforced by the Town whereas if the regulation is included in the Town's Zoning Ordinance, it would be enforced by Davidson County's Code Enforcement Officers on behalf of the Town. It was the consensus of the Planning Board to include the regulation in the Town's Zoning Ordinance.

Town Attorney Jim Lanik drafted the following amendment for the Planning Board's consideration. The Planning Board's suggested changes to the amendment are indicated in red.

Ordinance Keeping of Poultry or Small Farm Animals Within the Town Limits

Section A. No person may keep within the Town limits any poultry or small farm animals except pursuant to the provisions of this ordinance.

Section B. Definitions.

- (1) “Poultry” **includes but is not limited to** live chickens, doves, ducks, geese, grouse, guinea fowl, partridges, pea fowl, pheasants, pigeons, quail, swans, turkeys, chicks, and poults **and other species generally identified as poultry.**
- (2) “Small farm animals” means live rabbits but shall not mean any size of any of the following: cattle, sheep, goats, swine, horses, or mules.
- (3) “Lot” means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as herein required.
- (4) “Bona fide farm” has the meaning given to “Farm – Bona Fide” in the Town’s Zoning Ordinance.
- (5) “Micro farm” shall have the meaning given in the Town’s Zoning Ordinance.

Section C. Requirements for Keeping Poultry and Small Animals.

- (1) Control of Poultry and Small Farm Animals. It shall be unlawful for the owner or keeper of poultry or small farm animals:
 - (i) To permit any poultry or small farm animal to be or run at large within the Town; or
 - (ii) To be outside such animal’s enclosure on a lot of less than five acres.
- (2) Enclosures for Poultry and Small Farm Animals
 - (i) All poultry or small farm animals kept on a lot of less than five acres must be contained at all times to a secure fenced or walled enclosure pursuant to the provisions of this Section C. (2).
 - (ii) The enclosure **and structure** shall have a minimum of (10) square feet of area for each poultry or small farm animal.
 - (iii) No enclosure shall be erected or maintained within the front or side yard (as defined by the Town of Midway Zoning Ordinance), within ten (10) feet of any property line, but in no event within fifty (50) feet of another residence:
 - (iv) The enclosure shall be kept clean, sanitary, and free from **unreasonable or unsanitary** accumulations of excrement and objectionable odor; and
 - (v) No more than twenty poultry animals, including chicks and other baby animals, shall be kept or maintained by a property owner. Roosters shall not be allowed at any time.

Section D. Subject to the provisions of N.C.G.S. § 106-700, *et seq.*, the requirements of this ordinance apply to poultry and small farm animals that are present within the Town on the effective date of this ordinance as well as those brought within the Town thereafter. However, owners of the poultry or small farm animals that are within the Town on the effective date of this ordinance shall not be deemed in violation of this ordinance until they have been notified in writing of its requirements, have been given **sixty (60)** days to come into compliance with this ordinance, and have failed to do so.

Section E. A violation of any provision of this ordinance is hereby declared to be dangerous and prejudicial to the health or safety and to constitute a public nuisance. Such nuisances shall be abated as allowed by law, including but not limited to, the Town's ordinances and N.C.G.S. §§ 160A-174, 160A-175, 160A-193, and **160D**.

Section F. Nothing in this ordinance shall preclude the keeping of service or therapy animals within the Town, provided a health care professional has provided proper documentation regarding such service or therapy animal.

Section G. Any person who keeps poultry or small farm animals shall, in addition to complying with the ordinance, comply with any and all applicable federal, state, and local standards, regulations, laws, statutes and ordinances including, but not be limited to any registration requirements of the North Carolina Department of Agriculture and Consumer Services.

Section H. This ordinance shall not apply to poultry or small farm animals kept on:

- (1) A bona fide farm of ten acres or more; or
- (2) A micro farm of not less than two acres and less than ten acres,

Section I. Enforcement, Remedies, and Penalties

- (1) This ordinance shall be enforced by Davidson County's Code Enforcement Officers on behalf of the Town.
- (2) The provisions of Articles VII and VIII of the Town's Zoning Ordinance shall apply to this ordinance

Section J. This ordinance shall be effective as of _____.

A new heading would be added under Article VI. Development Standards in the Town of Midway Zoning Ordinance entitled Poultry or Small Farm Animals, Keeping of.

The Keeping of Poultry or Small Farm Animals would be added to the Table of Permitted Uses as a development standard of "D" which would apply to all districts in the Town's Zoning ordinance.

Town staff will forward the recommended changes to the ordinance to Town Attorney Jim Lanik for review before returning to the Planning Board at the April 26, 2022 Planning Board meeting.

DISCUSSION – DEVELOPMENT OF ORDINANCE FOR EXOTIC ANIMALS

Planning Board members reviewed Davidson County's Exotic Animal Ordinance for consideration of adoption by Town Council for the Town of Midway. Davidson County Zoning Administrator Lee Crook stated to the Planning Board that even though the County has an ordinance for exotic animals, Davidson County Sheriff's Department enforces the ordinance because the County does not have the equipment or the means to enforce it themselves. If the ordinance is adopted by Town Council as a stand alone ordinance

and not included in the Town's Zoning Ordinance, Town staff would be responsible for the enforcement of the ordinance.

Town Manager Tammy Michael will have Mayor John Byrum reach out to Sheriff Richie Simmons for consideration of enforcement of the ordinance by the Davidson County Sheriff's Department if adopted.

The Planning Board tabled the discussion until a clearer understanding of the enforcement of the ordinance is reached.

OATHS OF OFFICE

Deputy Clerk Tammy Robertson administered the oath of office to the following reappointed Planning and Zoning Board/ Board of Adjustment members:

- James Smith
- Richard Miller (Alternate member)

Board member Carl Tuttle, who was absent from the meeting, will be administered the oath of office at a later date.

The term of the reappointed Planning and Zoning Board/Board of Adjustment members will expire March 31, 2025.

ELECTION OF OFFICERS - CHAIRPERSON

Chairman James Smith opened the floor for nominations for Chairperson of the Planning Board.

Jamie Hester nominated Charles Waddell for Chairperson.

There being no further nominations, the floor was closed.

On motion by Board member Jamie Hester, seconded by Board member Charles Waddell, the Board voted unanimously to elect Charles Waddell as Chairperson of the Planning and Zoning Board.

ELECTION OF OFFICERS – VICE-CHAIRPERSON

Chairman James Smith opened the floor for nominations for Vice-Chairperson of the Planning Board.

Jamie Hester nominated Paula Hill for Vice-Chairperson.

There being no further nominations, the floor was closed.

On motion by Board member Charles Waddell, seconded by Board member Jamie Hester, the Board voted unanimously to elect Paula Hill as Vice-Chairperson of the Planning Board.

Deputy Clerk Tammy Robertson administered the oaths of office to Charles Waddell Chairperson, and Paula Hill Vice-Chairperson. Terms of office expire March 2023.

ADJOURNMENT

On motion by Board member Charles Waddell, seconded by Board member Richard Miller, the Board voted unanimously to adjourn at 5:58 p.m.

James W. Smith, Chairperson

Tammy H. Robertson, Deputy Clerk