



**TOWN OF MIDWAY
PLANNING & ZONING BOARD MINUTES
TUESDAY, MAY 31, 2022**

MINUTES OF MIDWAY PLANNING & ZONING BOARD MEETING HELD ON TUESDAY, MAY 31, 2022 AT 5:00 P.M. AT MIDWAY TOWN HALL, 426 GUMTREE ROAD, MIDWAY, NORTH CAROLINA

CALL TO ORDER

Chairman Charles Waddell called the meeting to order.

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

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

APPROVAL OF MINUTES

On motion by Board member James Smith, seconded by Board member Carl Tuttle, the Board voted unanimously to approve the March 29, 2022 minutes as presented.

ADOPT AGENDA

On motion by Board member Carl Tuttle, seconded by Board member Jamie Hester, 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 March 29, 2022, Planning Board members continued discussion on a Free-Range Fowl Ordinance for the Town of Midway for the keeping of poultry or small farm animals. It was the consensus of the Planning Board members to include the regulation as a text amendment to the Town's Zoning Ordinance. The ordinance would be enforced by Davidson County's Code Enforcement Officers on behalf of the Town.

Davidson County Zoning Officer Josh Tussey presented to the Planning Board, Poultry or Small Farm Animals, Keeping of, as it would appear in the Table of Permitted Uses and Development Standards sections of the Town of Midway Zoning Ordinance as a permitted use in all districts upon demonstrating compliance with specific development standards.

Section 3.09 TABLE OF PERMITTED USES

Use	RA-1	RA-2	RA-3	RS	RM-1	RM-2	DC	CS	OI	HC	LI	HI	MX-R	MX-C
	Manufactured Home, Class B/C Accessory (family hardship)	SB	SB	SB	SB	SB	SB							
Manufactured Home Park, more than ten (10) Spaces					SA									
Manufactured Home Park, less than ten (10) Spaces	SB	SB	SB		SB									
Manufactured Housing, Travel Trailer, Camper, Marine or Recreational Vehicle Sales										X	X			X
Micro Farm	D	D	D	D	D	D	D	D					D	D
Microwave, Television or Radio Antenna Tower and Facilities (any size)								SA		SA	SA	SA	SA	SA
Motor Vehicle Maintenance & Repair							D	D		D	D	D	D	D
Museums							X	X	X	X			X	X
Nursing and Rest Homes					X	X	X	X	X	X			X	X
Offices							X	X	X	X	X	X	X	X
Outdoor Advertising Sign								D		D	D	D	D	D
Outdoor Storage Yard										D	D	D		D
Parking, Principal Use								D	D	D	D	D	D	D
Parcel Delivery Service								X		X	X		X	X
Parks, Playing Fields (Non-profit)	X	X	X	X	X	X	X			X			X	X
Pharmacy and Drug Store							X	X		X			X	X
Poultry or Small Farm Animals, Keeping of	D	D	D	D	D	D	D	D	D	D	D	D	D	D

ARTICLE VI. DEVELOPMENT STANDARDS

Section 6.01 STANDARDS FOR PERMITTED USES

(Q) Poultry or Small Farm Animals, Keeping of

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

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 farms 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 ten (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 (20) 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 farms 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 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 (10) acres.

Section I. Enforcement, Remedies and Penalties

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

On motion by Board member Jamie Hester, seconded by Board member James Smith, the Board voted unanimously to recommend to Town Council the adoption of the Free-Range Fowl Ordinance to be included as a text amendment to the Town of Midway Zoning Ordinance as presented.

DISCUSSION – TABLE OF PERMITTED USES – ANIMAL GROOMING

Davidson County Zoning Officer Josh Tussey shared with the Planning Board a request from a local realtor regarding whether or not a particular piece of property in the Midway Township was zoned for a small non-commercial kennel to be allowed on the premises. The person wishing to purchase the property wants to maintain a small animal grooming business on site.

In the Town's Zoning Ordinance, the standards and requirements for an animal grooming business are included in ARTICLE VI. DEVELOPMENT STANDARDS, Section 6.01 STANDARDS FOR PERMITTED USES, (C), but not included in the Table of Permitted Uses. In Davidson County's Zoning Ordinance, there are specific development standards as a use in the Table of Permitted Uses allowing for an Animal Grooming (Stand-Alone Business) in any RA-1, RA-2, RA-3, RM-1, RM-2, RC, CS, OI, HC, MIX-R, MIX-C, and PEC districts as an accessory to a home occupation requirement.

It was the consensus of the Planning Board to add Animal Grooming (Stand-Alone Business) to the Table of Permitted Uses as a text amendment to the Town's Zoning Ordinance, to be allowed in the same districts as Davidson County's Zoning Ordinance; RA-1, RA-2, RA-3, RM-1, RM-2, RC, CS, OI, HC, MIX-R, MIX-C, and PEC.

Davidson County Planning and Zoning Officials will draft the text amendment and present it to the Planning Board at the next Planning Board meeting on June 28, 2022.

ADJOURNMENT

On motion by Board member Jamie Hester, seconded by Board member James Smith, the Board voted unanimously to adjourn the meeting at 5:22 p.m.

Charles Waddell, Chairperson

Tammy H. Robertson, Deputy Clerk