
PART ONE — ADMINISTRATIVE CODE

ARTICLE 133 Planning Commission

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CROSS REFERENCES

Authority to establish—see WV Code 8-2-1
General provisions—see WV Code 8A-2-3 *et seq.*
Adoption of comprehensive plan—see WV Code 8A-3
Approval of subdivision plats—see WV Code 8A-5-1 *et seq.*
Zoning recommendations—see WV Code 8A-8-1 *et seq.*
Historic Landmarks Commission—see Ord. Art. 131

133.01 Creation; objectives.

- (a) There is hereby created, in the Corporation of Harpers Ferry, the Harpers Ferry Planning Commission. The purposes of the Planning Commission are to:
 - (1) Promote the orderly development of the Town and its environs;
 - (2) Preserve, protect and foster the rehabilitation of historic properties within the Town;
 - (3) Provide healthy surroundings for family life;
 - (4) Plan areas so that adequate light, air, convenience of access, and safety from fire, flood and other dangers may be secured, that congestion in the public streets may be lessened or avoided, and that the public health, safety, comfort, morals, convenience and general public welfare may be promoted;
 - (5) Ensure that growth of the community is balanced with its historic significance;
 - (6) Ensure that growth is environmentally sound;
 - (7) Encourage conservation of natural resources;
 - (8) Guide growth of the community in accordance with the Harpers Ferry Comprehensive Plan;
 - (9) Make recommendations for capital improvements in accordance with the Harpers Ferry Comprehensive Plan;
 - (10) Review proposed development for consistency with building ordinances and guidelines; and
 - (11) For such other objectives as set forth in West Virginia Code 8A-2.
- (b) In accomplishing this objective, the Planning Commission shall serve only in an advisory capacity to the Town Council, unless otherwise provided for by the codified ordinances of Harpers Ferry or pursuant to State law. (Ord. 2014-07, passed 01-05-2015; Ord. 2015-12, passed 01-11-2016.)

HISTORY:

Ord. 2014-07 (passed 01-05-2015, effective 02-16-2015) superseded Ord. 77-3 (passed 12-12-1977; amended 04-11-2005, 12-11-2006 and 02-14-2011) to bring the structure and function of the Planning Commission into compliance with current WV Code.

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133.02 Membership and term of service; removal from office.

(a) Membership and term of service.

- (1) The Planning Commission shall have seven members, at least five of whom shall have been residents of the Town for at least three years before the commencement of their service. One member must be a member of the Town Council or its designee, and one member must be a member of the administrative office of the Mayor or the Mayor's designee. The terms of membership for these two members are the same as their terms of office. All confirmed members shall have the right to vote on issues before the Planning Commission.
- (2) The remaining members of the Planning Commission first selected shall serve respectively for one year, two years, and three years, divided equally or as nearly equally as possible between these terms. Thereafter, members shall be selected for terms of three years each.
- (3) Vacancies shall be filled for the unexpired term only, in the same manner as original selections are made.
- (4) All members shall be residents of the Corporation of Harpers Ferry.
- (5) Nominations for Planning Commission membership shall be appointed and confirmed by the Town Council.
- (6) Members shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

(b) Removal from office. Members of the Planning Commission may be removed in accordance with the provisions of Ordinance Article 130. ^[133.02]

133.03 Regular and special meetings.

- (a) The Planning Commission shall fix the time for holding regular meetings, but shall meet at least once in the months of January, April, July, and October.
- (b) Special meetings of the Planning Commission may be called by the president or by at least two members upon written request to the president. Whether called by the president or by two or more members, the president shall send to all of the members, at least two days in advance of a special meeting, a written notice fixing the date, time, and place of the meeting. Public notice must be posted at least two days in advance of a special meeting. Notice of a special meeting is not required if the date, time, and place of a special meeting were set in a regular meeting.

133.04 Quorum.

The Planning Commission must have a quorum to conduct a meeting. A majority of appointed and serving members of the Planning Commission shall constitute a quorum. No action of the Planning Commission shall be official, unless authorized by a majority of members present at a regular or properly called special meeting.

133.05 Offices and expenses.

The Town Council shall provide the Planning Commission with suitable offices for the holding of meetings and preservation of plans, maps, documents, and accounts, and shall provide this by appropriating a sum sufficient to defray the reasonable expense of the Planning Commission. The Planning Commission is authorized to accept gifts, funds and donations

FOOTNOTES:

- 133.02 Ord. 2015-09 (passed 11-09-2015) added subsection (b), concerning removal from office. Ord. 2021-03 (passed 11-18-2021) amended subsection (a) to bring it into compliance with WV Code § 8A-2-3. (See also WV Code §§ 8-3A-1 and 8-3-2.)

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which will be deposited with the Town Council in a special non-reverting Planning Commission fund to be available for expenditures by the Planning Commission for the purpose designated by the donor.

133.06 Election of officers.

At its first regular meeting in each calendar year the Planning Commission shall elect from its members a president, vice-president, and secretary. The vice president shall have the power and authority to act as president of the Planning Commission during the absence or disability of the president.

133.07 Powers and authority.

The Planning Commission shall have the power, authority and duty to:

- (a) Exercise general supervision for the administration of the affairs of the Planning Commission;
- (b) Prescribe uniform rules and regulations pertaining to administration, investigations and hearings; provided, that the rules and regulations are adopted by the Town Council;
- (c) Supervise the fiscal affairs and responsibilities of the Planning Commission;
- (d) With consent from the Town Council, prescribe the qualifications of, appoint and remove employees necessary to carry out the duties and responsibility of the Planning Commission; provided, that the Town Council sets the salaries;
- (e) Keep an accurate and complete record of Planning Commission proceedings;
- (f) Record and file all bonds and contracts;
- (g) Assume responsibility for the custody and preservation of all papers and documents of the Planning Commission;
- (h) Make an annual report to the Town Council concerning the operation of the Planning Commission and the status of planning within its jurisdiction;
- (i) Prepare, publish, and distribute reports, ordinances and other material relating to the activities authorized under this article;
- (j) Adopt a seal, and certify all official acts;
- (k) Invoke any legal, equitable, or special remedy for the enforcement of the provisions of this article or any ordinance, rule, and regulation or any action taken thereunder;
- (l) Prepare an annual budget and submit it to Town Council at the beginning of the year. The Planning Commission shall be limited in all expenditures to the provisions made therefore by Town Council;
- (m) If necessary, establish an advisory committee or committees;
- (n) Delegate to a committee composed of one or more members of the Planning Commission the power to hold any public hearings or conferences required or permitted under this article to be held by the Planning Commission. A written record of the substance of the hearing or conference shall be made and preserved with the records of the Planning Commission. The committee shall have the authority only to conduct the hearing and report to the Planning Commission;
- (o) Contract for special or temporary services and professional counsel with the approval of the Town Council. Upon request, a county prosecuting attorney, the county surveyor, the county engineer or any other county employee may render assistance and service to the Planning Commission without compensation;
- (p) Approve a minor subdivision or land development application within the Town;
- (q) Exempt an application for a minor subdivision or land development within the Town; and
- (r) Approve a major subdivision or land development application within the Town. ^[133.07]

FOOTNOTES:

133.07 Ord. 2023-01 (passed 03-13-2023) amended this section to comply with WV Code § 8A-2-11.

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133.08 Comprehensive plan.

In addition to such other matters that the Town Council may direct, the Planning Commission shall make and recommend to the Town Council a comprehensive plan as described in West Virginia Code 8A-3.

133.09 Jurisdiction.

The jurisdiction of the Planning Commission shall not extend beyond the corporate limits of the Town.

133.10 Enforcement.

- (a) To enforce any provision of the Zoning Ordinance, decision of the Ordinance Compliance Officer, Planning Commission or order or ruling of the Board of Zoning Appeals the Town may:
 - (1) Enforce penalties to the extent permitted under West Virginia law for failure of any person to comply with the provisions of any ordinance or rule or regulation adopted under the provisions of West Virginia Code 8A; and
 - (2) Declare that any buildings erected, raised or converted, or land or premises uses in violation of any provision of any ordinance or rule or regulation adopted under the authority of West Virginia Code 8A shall be a common nuisance and the owner of the building, land or premises shall be liable for maintaining a common nuisance.
- (b) The Planning Commission, Board of Zoning Appeals or the Ordinance Compliance Officer may seek an injunction in the Circuit Court of Jefferson County to restrain a person or unit of government from violating the provisions of any ordinance or rule or regulation under its jurisdiction or to direct a person or unit of government to remove a structure erected in violation of the provisions of any ordinance or rule or regulation under its jurisdiction. If the Planning Commission, Board of Zoning Appeals or the Ordinance Compliance Officer is successful in any such action in which an injunction is issued the respondent shall bear the costs of the action.
- (c) The Planning Commission, Board of Zoning Appeals or the Ordinance Compliance Officer may seek an injunction in the Circuit Court of Jefferson County to direct a person or persons or any government with jurisdiction and power to remove a structure erected in violation of the provisions of any ordinance or rule or regulation under its jurisdiction. If the Planning Commission, Board of Zoning Appeals or the Ordinance Compliance Officer is successful in any such action in which an injunction is issued the respondent shall bear the costs of the action.