ARTICLE III - Administrative Mechanisms

Part I. Planning Board

§ 23
Appointment and Terms of Planning Board Members

(a) There shall be a planning board consisting of seven members. Four members, appointed by the town board of commissioners, shall reside within the town. Three members, appointed by the county board of commissioners, shall reside within the Town's Extraterritorial Planning Jurisdiction (ETJ). If, despite good faith efforts, enough residents of the extraterritorial planning area cannot be found to fill the seats reserved for residents of such area, then the county board of commissioners may appoint other residents of the county (including residents of the town) to fill these seats. If the county board fails to make these appointments within 90 days after receiving a resolution from the town board requesting that they be made, the town board may make the appointments.

(b) Members may be appointed to serve only two successive terms. Members may serve an additional two terms after leaving the board for at least one term (3 years).

(c) Planning board members may be removed by the town board at any time for failure to attend three consecutive meetings within any 12-month period or for any other good cause related to performance of duties. Upon request of the member proposed for removal the town board shall hold a hearing on the removal before it becomes effective.

(d) If an in-town member moves outside the town or if an extraterritorial area member moves outside the planning jurisdiction, that shall constitute a resignation from the planning board, effective upon the date a replacement is appointed by the Town board.

(e) One alternate member from within the Towns' corporate limits and one alternate member from the Towns' Extraterritorial jurisdiction shall be selected by the Town Board. Alternate members shall serve in the absence of regular members and shall have full voting powers.

§ 24
Meetings of the Planning Board

(a) The planning board shall meet regularly on the Second Monday of each month and take actions in conformity with § 52.

(b) Since the board has only advisory authority, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Articles IV, V, AND VI.
However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.

(c) Minutes shall be kept of all board proceedings.
(d) All board meeting shall be open to the public, and whenever feasible the agenda for each board meeting shall be made available in advance to the meeting.

(e) Whenever the board is called upon to make recommendations concerning a conditional-use permit request or special-use permit request, the planning staff shall post on or near the subject property one or more notices that are sufficiently conspicuous in terms of size, location, and content to provide reasonably adequate notice to potentially interested persons of the matter that will appear on the board's agenda at a specified date and time. Such notice(s) shall be posted at least seven days prior to the meeting at which the matter is to be considered. The planning staff shall also send written notice to adjoining property owners if and to the extent required by any regulation or requirement of the planning board adopted under Subsection 27(b).

§ 25
Quorum and Voting

(a) A quorum for the purpose of convening the Planning board for any official action shall consist of a minimum of five members.

(b) All actions of the planning board shall be taken by majority vote, a quorum being present.

(c) A roll call vote shall be taken upon the request of any member.

(d) Extraterritorial planning area members may vote on all matters considered by the board, regardless of whether the property affected lies within or without the Town.

§ 26
Planning Board Officers

(a) At its first meeting in July of each year, the planning board shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chairman and preside over the board's meetings and one member to serve as vice-chairman. The people so designated shall serve in these capacities for terms of one year. Vacancies in these offices may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).

(b) The chairman and vice-chairman shall take part in all deliberations and vote on all issues.
§ 27
Powers and Duties of Planning Board

(a) The Planning board may:

(1) Make studies and recommend to the town board plans, goals, and objectives relating to the growth, development, and redevelopment of the town and the surrounding extraterritorial planning area.

(2) Develop and recommend to the town board policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.

(3) Make recommendations to the board of commissioners concerning proposed conditional-use permits and proposed zoning map changes, as provided by Sections 52 and 317=.

(4) Perform many other duties assigned by the town board.

(b) The planning board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this ordinance.

§ 28
Advisory Committees

(a) From time to time, the town board may appoint one or more individuals to help the planning board carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the town board may appoint advisory committees to consider the thoroughfare plan, bikeway plans, housing plans, economic development plans, etc.

(b) Members of such advisory committees shall sit as nonvoting members of the planning board when such issues are being considered and lend their talents, energies, and expertise to the planning board. However, all formal recommendations to the town board shall be made by the planning board.

(c) Nothing in this section shall prevent the town board from establishing independent advisory groups, committees, or commissions to make recommendations on any issue directly to the board of commissioners.

Part II Board of Adjustment

The members of the planning board shall serve the dual role as board of adjustment members. Therefore the appointment, term and officers of board of adjustment shall be identical to that of the planning board.
§ 29
Meetings of the Board of Adjustment

(a) The board of adjustment shall meet regularly on the second Monday of each month and shall take action with conformity with § 54.

(b) The board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in Article IV, V, and VI.

(c) All meetings of the board shall be open to the public, and whenever feasible the agenda for each board meeting shall be made available in advance to the meeting.

§ 30
Quorum

(a) A quorum for the board of adjustment shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats). A quorum is necessary for the board to take official action.

(b) A member who has withdrawn from the meeting without being as provided in § 31 shall be counted as present for purposes of determining whether a quorum is present.

§ 31
Voting

(a) The concurring vote of four-fifths of the regular board membership (excluding vacant seats) shall be necessary to reverse any order, requirement, decision, or determination of the administrator or to decide in favor of the applicant any matter which it is required to pass under any ordinance (including the issuance of a special-use permit) or to grant any variance. All other actions of the board shall be taken by majority vote, a quorum being present.

(b) Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with Subsection (c) or has been allowed to withdraw from the meeting in accordance with Subsection (d).

(c) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:

   (1) If the member has a direct financial interest in the outcome of the matter at issue, or
   (2) If the matter at issue involves the member's own official conduct, or
(3) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility, or
(4) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.

(d) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

(e) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.

(f) A roll call vote shall be taken upon the request of any member.

Part III. Land-Use Administrator

§ 32
Land-Use Administrator

Except as otherwise specifically provided, primary responsibility for administering and enforcing this ordinance may be assigned by the town manager to one or more individuals. The person or persons to whom these functions are assigned shall be referred to in this ordinance as the "land-use administrator" or "administrator". The term "staff" or "planning director" is sometimes used interchangeably with the term "administrator".

The Planning director is the administrative head of the planning department.

§ 33 and § 34 Reserved

Part IV. Town Board of Commissioners

§ 35
Town Board of Commissioners

(a) The Town Board of Commissioners, in considering conditional-use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Articles IV and VI of this ordinance.
(b) In considering proposed changes in the text of this ordinance of the zoning map, the town board acts in its legislative capacity and must proceed in accordance with the requirements of Article XX.

(c) Unless otherwise specifically provided in this ordinance, in acting upon conditional-use permit requests or in considering amendments to this ordinance of the zoning map, the town board shall follow the regular, voting, and other requirements as set forth in other provisions of the town code, the town charter or general law.

(d) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

(e) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.

(f) A roll call vote shall be taken upon the request of any member.

§ 36 through § 40
Reserved