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Article II **Administration and Enforcement**

§ 165-10 Purpose.

[Amended 4-3-2017 by Ord. No. 780-17]

This article delineates the boards, commissions and individuals involved in the administration of the Town of Bel Air Development Regulations and, where appropriate, outlines the individual's and/or group's responsibilities. These groups and individuals ensure that development is consistent with state and local visions, as specified in the Land Use Article of the Annotated Code of Maryland and the 2016 Town of Bel Air Comprehensive Plan, and with all applicable regulations.

§ 165-11 Board of Town Commissioners.

[Amended 4-3-2017 by Ord. No. 780-17]

The Board of Town Commissioners, established pursuant to the Charter of the Town of Bel Air, is the five-member elected legislative body ultimately responsible for the effectiveness of the Town of Bel Air Development Regulations. It establishes the regulations, approves amendments and gives final approval to other matters as defined in the Land Use Article of the Annotated Code of Maryland and the Code of the Town of Bel Air. The Board of Town Commissioners is charged with the following powers and duties:

- A. Approve a recommended Town of Bel Air Comprehensive Plan and/or amendments thereto as provided in the Land Use Article of the Annotated Code of Maryland.
- B. Approve changes to the Town of Bel Air Development Regulations text and map after due consideration of the recommendations of the Planning Commission.
- C. Seek recommendations from the Planning Commission relative to zoning, traffic and annexation requests.
- D. Approve historic construction and rehabilitation design guidelines and approve designation of historic districts and sites.
- E. Appoint board and commission members in accordance with the Land Use Article of the Annotated Code of Maryland and the Code of the Town of Bel Air.

§ 165-12 Board of Appeals.

The Board of Appeals, as established by the Bel Air Town Code, consists of five Town citizens and one alternate, appointed by the Board of Town Commissioners for a term of three years each. The Chair is elected annually by the Board of Appeals members. The Board's operations are limited to the independent review of specific land use questions. The Board is charged with the following powers and duties:

- A. Hear appeals from a decision or interpretation rendered by the Zoning Administrator.
- B. Grant or deny special exceptions pursuant to Article **XII** of this chapter.
- C. Grant or deny variances pursuant to Article **XII** of this chapter.
- D. Grant authorization to expand or extend nonconforming uses and/or structures.

- E. Hear appeals and requests for variances from the requirements of Chapter **210**, Floodplain Management, Article **VII**, Variances, of the Bel Air Town Code.
- F. Hear appeals from a decision rendered by the Historic Preservation Commission in accordance with the Land Use Article of the Annotated Code of Maryland. [**Amended 4-3-2017 by Ord. No. 780-17**]

§ 165-13 Concept Plan Review Committee.

The Concept Plan Review Committee is an advisory committee created by the Board of Town Commissioners and consisting of a minimum of five members: the Director of Planning and Community Development, the Director of Public Works, a Town Commissioner, a Planning Commission member, and an Economic and Community Development Commission member. Committee members shall serve on an ad hoc basis and may authorize a designee to act on their behalf as necessary. Depending on the project, representatives from other local and state agencies may be included in the initial concept plan review process, i.e., the State Highway Administration, Fire Department, Health Department, etc. Concept plan review is a review process to help applicants identify applicable development regulation requirements before a project is submitted to the respective reviewing agency(ies) for consideration. The Committee's duties and responsibilities are as follows:

- A. Review concept plans and act as an advisory body for commercial, industrial and institutional development in excess of 5,000 square feet, residential development of 25 units or more, in order to encourage development that meets Town goals. [**Amended 4-3-2017 by Ord. No. 780-17**]
- B. Assist applicant(s) in identifying development requirements and understanding the development process.
- C. Provide guidance for current and planned projects, as delineated in the Town of Bel Air Comprehensive Plan, with respect to their effect on existing and future development and infrastructure and on the Town's design standards, community character, enhancement of property values and long-term goals and objectives.
- D. Identify and seek informal comments on proposed developments, if deemed appropriate, from outside reviewing agencies, including, but not limited to, the Health Department, Bel Air Volunteer Fire Company, State Highway Administration, the Board of Education, the State Fire Marshal's Office and Harford County Department of Planning and Zoning. [**Amended 11-25-2011 by Ord. No. 744-11**]
- E. Prepare minutes of the concept plan meeting for the Planning Commission's and, when applicable, Board of Town Commissioner's review and consideration. [**Amended 4-3-2017 by Ord. No. 780-17**]

§ 165-14 Cultural Arts Commission.

The Cultural Arts Commission, as established by the Bel Air Town Code, consists of nine members who serve as an advisory commission to the Board of Town Commissioners on matters pertaining to the celebration and the promotion of the cultural arts in the Town of Bel Air. The term of each member shall be three years or until his/her successor takes office. The Chair is elected annually by the Cultural Arts Commission members. The Commission's duties and responsibilities include the following:

- A. Prepare an annual report for the Town Commissioners, detailing the Commission's activities during the previous year.
- B. Prepare reports and make recommendations upon special matters or questions within its scope of

work.

- C. Prepare an annual budget related to projects within the Commission's scope, outlining forthcoming events and the funds allocated to each event.
- D. Conduct fund-raising programs for the promotion of cultural arts programs and events for the Town of Bel Air.
- E. Review and make recommendations to the Planning Commission for approval, denial or modifications of proposed art amenities as required in Part 4 of the Town of Bel Air Development Regulations.

§ 165-15 Director of Planning and Community Development.

The position of Director of Planning and Community Development is created by the Board of Town Commissioners and appointed by the Town Administrator. This official is charged with organizing the Department of Planning and Community Development staff, as necessary, to carry out the functions of the Department. The Director of Planning and Community Development is also charged with carrying out the duties of the Zoning Administrator in administration of the Town of Bel Air Development Regulations. The Director or authorized designee shall have, in administration of the Town of Bel Air Development Regulations, the following powers, duties and rights:

- A. Perform duties necessary for the proper enforcement and administration of the Town of Bel Air Development Regulations in the role of Zoning Administrator.
- B. Render interpretations, upon written request of an interested person whose property may be affected, as to the applicability of the Town of Bel Air Development Regulations to particular uses and its application to the factual circumstances presented.
- C. Receive, review, recommend, approve or deny applications as specified under the Town of Bel Air Development Regulations.
- D. Conduct inspections and surveys to determine whether a violation of the Town of Bel Air Development Regulations exists; in carrying out this duty, it is the right of the Zoning Administrator or authorized agent to enter and inspect, with permission of the owner or occupant, any structure or land in order to verify compliance with provisions of the Town of Bel Air Development Regulations. Should the owner or occupant deny such entry, the Zoning Administrator may seek relief from a court of competent jurisdiction to permit such rights.
- E. Seek criminal or civil enforcement **including issuance of a citation for a Municipal Infraction** for any provision of these Development Regulations and take any action on behalf of the Town to prevent or abate any violation of the Town of Bel Air Development Regulations.
- F. Design and distribute applications and forms required by the Town of Bel Air Development Regulations requesting information which is pertinent to the requested approval.
- G. Receive, investigate and determine **the validity of** ~~as a matter of fact~~ complaints of violations of the Town of Bel Air Development Regulations.
- H. Issue zoning approvals pursuant to the provisions of the Town of Bel Air Development Regulations and recommend suspension or revocation of any zoning approvals upon violation of any provisions of the Town of Bel Air Development Regulations.

- I. Decisions of the Zoning Administrator shall be in writing and shall be subject to appeal to the Board of Appeals by any aggrieved person within 30 days of the date of the decision.
- J. Receive, review, recommend, approve or deny requests for minor setback variances through the administrative review process.
- K. Receive, review, recommend, approve or deny requests for waivers for screening, landscaping, architectural treatments and fencing provisions.
- L. Review, approve, approve with conditions, or deny development submissions related to Forest Conservation, Traffic Impact Analysis, Minor Site Plans and Minor Subdivision Plans including parcel consolidation, easements, and rights-of-way.**

§ 165-16 Director of Public Works.

The position of Director of Public Works is created by the Board of Town Commissioners and appointed by the Town Administrator. This official acts as the Town Building Official. As such, the Director is charged with the administration of the Town of Bel Air Development Regulations in concert with the Director of Planning and Community Development. In this capacity, the Director functions to review development and planned development to ensure conformance with provisions of the Town of Bel Air Development Regulations and other Town regulations and standards. The Building Official is also responsible for enforcing the Town's Building Code and other related regulations. The Director or authorized designee shall have, in administration of the Town of Bel Air Development Regulations, the following powers, duties and rights:

- A. Perform duties necessary for the proper enforcement and administration of the Town of Bel Air Development Regulations in his role as Building Official.
- B. Render interpretations, upon written request of any interested person whose property may be affected, as to the applicability of the Town of Bel Air Development Regulations to the factual circumstances presented regarding subdivision, public works improvements and issues in concert with the Director of Planning and Community Development.
- C. Receive, review, approve or deny applications as specified under the Town of Bel Air Development Regulations.
- D. In concert with the Director of Planning and Community Development, conduct inspections and surveys to determine whether a violation of the Town of Bel Air Development Regulations, the Town's Building Codes and other related laws exists.
- E. Serve as the Floodplain Administrator as specified in Chapter **210**, Floodplain Management, to interpret floodplain boundaries, review applications for development, inspect structures in flood areas, and permit and enforce provisions of the Floodplain Management Chapter. **[Added 4-3-2017 by Ord. No. 780-17]**
- F. Seek criminal or civil enforcement including issuance of a citation for a Municipal Infraction for any provision of the Building Code, Property Maintenance, Development Regulations, and Health and Sanitation chapters of the Town code and act on behalf of the Town to prevent or abate violations.**

§ 165-17 Economic and Community Development Commission.

The Economic and Community Development Commission, as established by the Bel Air Town Code,

consists of nine members who act as the Town's community development agency. The term of each member shall be three years or until his/her successor takes office. The Chair is elected annually by the Economic and Community Development Commission members. The Commission's duties and responsibilities are as follows:

- A. Provide strategic planning for future economic development.
- B. Encourage business development and recruitment of new businesses which would benefit the area economy and retention of existing businesses in the community.
- C. Market, advertise and seek new business prospects for the Town.
- D. Promote a positive relationship between the business community, citizens and government.
- E. Develop revitalization activities directed toward preserving and promoting employment opportunities and maintaining an attractive environment throughout the Town.
- F. Promote government coordination with other jurisdictions.
- G. **Promote** ~~Provide~~ preservation, improvement, or embellishment of historic structures or monuments.
- H. Promote the installation, construction or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out the Town's economic and community development objectives.
- I. Act as an advisory group on commercial development projects.
- J. **Recommend** ~~Institute~~ demolition and removal of buildings and improvements.

§ 165-18 **Historic Preservation Commission.**

The Historic Preservation Commission, as established by the Bel Air Town Code, is composed of seven members. The majority are residents who have a demonstrated special interest, knowledge, or a professional or academic training in architecture, history, architectural history, archeology, planning, anthropology, curation, conservation, landscape architecture, historic preservation, urban design or related disciplines. Commission members serve for a term of three years or until his/her successor takes office. The Chair is elected annually by the Historic Preservation Commission members. The Commission's duties and responsibilities are as follows:

- A. Safeguard the heritage of the Town of Bel Air by preserving the sites and districts therein which reflect elements of its cultural, social, economic, political, archeological or architectural history.
- B. Stabilize and improve property values in such districts.
- C. Foster civic beauty and safeguard the architectural legacy for residential and commercial buildings. **[Amended 4-3-2017 by Ord. No. 780-17]**
- D. Support education and awareness of the Town heritage through programs and activities. **[Amended 4-3-2017 by Ord. No. 780-17]**
- E. Promote the use and preservation of historic sites and districts for the education, welfare and pleasure of the residents of Bel Air.

- F. Review, approve, deny or make recommendations, as applicable, on plans for renovation or redevelopment of historic properties.

§ 165-19 Planning Commission.

The Planning Commission, as established by the Bel Air Town Code, consists of five members and one alternate appointed by the Board of Town Commissioners. The term of each member shall be five years or until his successor takes office. The Chair is elected annually by the Planning Commission. After public hearing, members may be removed by the Board of Town Commissioners for inefficiency, neglect of duty, or malfeasance in office. The Planning Commission is charged with the following powers and duties:

- A. Prepare, approve and recommend to the Board of Town Commissioners adoption of the Town of Bel Air Comprehensive Plan.
- B. Prepare, approve and recommend Town of Bel Air Comprehensive Plans for major geographic sections or divisions of the Town to the Board of Town Commissioners for adoption.
- C. Promote public interest in and understanding of the Town of Bel Air Comprehensive Plan.
- D. Recommend to the Board of Town Commissioners programs for public structures, improvements and land acquisition and their financing.
- E. Consult public officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens, as deemed necessary, with relation to protection or execution of the **Comprehensive P**lan.
- F. **Receive comments at a public hearing to** recommend the boundaries of the various zoning districts and appropriate regulations **to the Board of Town Commissioners** to be enforced therein. ~~Make a preliminary report and hold at least one public hearing before submitting proposed zoning districts and regulations to the Board of Town Commissioners for approval.~~
- G. Advise the Board of Town Commissioners on changes in zoning, annexations and **development regulations** ~~transportation plans~~.
- H. Review and take appropriate action on site plans, landscape plans and subdivision plats, along with other pertinent plans, plats and materials, based on compliance with the Town of Bel Air Development Regulations and standards herein. **[Amended 4-3-2017 by Ord. No. 780-17]**
- I. Prepare regulations governing subdivision of land within the Town limits; approve or deny proposed subdivision plats and resubdivision of existing record lots. All plats **including one or more new lots** must bear the signature of the Chair before legal recording among the land records of Harford County.
- J. Make, alter or rescind rules and forms for its procedures, consistent with the Land Use Article of the Annotated Code of Maryland, as amended from time to time. **[Amended 4-3-2017 by Ord. No. 780-17]**
- K. File its minutes, decisions and other records in the Planning Office of the Town and maintain them as public record.
- L. Make recommendations and an annual report to the Board of Town Commissioners and the

Maryland Department of Planning, concerning operation of the Commission and the status of planning in Bel Air.

M. Prepare, publish and distribute reports, ordinances, and other materials related to its activities.

§ 165-20 **Enforcement; violations and penalties.**

- A. Complaints regarding violations. Whenever the Zoning Administrator **or designee** receives a written or verbal complaint alleging a violation of this article, he/she shall investigate the complaint and take whatever action is warranted.
- B. Persons liable. The owner, tenant and/or occupant of any building, structure or land or part thereof who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of the Town of Bel Air Development Regulations may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.
- C. Violation notice procedures.
- (1) Whenever the provisions of the Town of Bel Air Development Regulations have been violated, the Zoning Administrator or ~~his/her~~ designee shall send a written notice to the owner and occupant of the property alleged to be in violation, indicating the nature of the violation and ordering corrective action within 15 days. An additional written notice **may shall** be sent at the Zoning Administrator's discretion.
 - (2) The notice shall state what action the Zoning Administrator intends to take if the violation is not corrected and advise that the Zoning Administrator's decision may be appealed to the Board of Appeals in accordance with Article **XII** of the Town of Bel Air Development Regulations.
 - (3) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this article or pose a danger to the public health, safety or welfare, the Zoning Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Subsection **D** of this section.
- D. Penalties.
- (1) Any owner, tenant or occupant who uses or permits the use of land, buildings or structures contrary to the provisions of the Town of Bel Air Development Regulations shall be subject to a fine of not more than \$400 for each offense, in accordance with Chapter 1, Article **II**, § **1-10**, of the Town Code. Each day of a continuing violation shall be considered a separate municipal infraction.
 - (2) The Town may recover damages in a civil action for violation of the Town of Bel Air Development Regulations and may adopt procedures for the imposition of civil penalties as authorized by state law.
 - (3) In the event of a violation of any of the provisions of the Town of Bel Air Development Regulations or any amendment or supplement thereto, the Zoning Administrator, any adjacent or neighboring property owner or any person who would be specially damaged by such violation, in addition to other remedies provided by law, may institute a suit for injunction, mandamus, abatement or other appropriate action or other proceeding to prevent, restrain, correct or abate such unlawful activity or use.

- E. Approval/permit revocation. A zoning, sign, **preliminary site/landscape plan, variance**, special development or special exception approval/permit may be revoked by the Board of Town Commissioners (in accordance with the provisions of this article) if the approval/permit recipient, or its successors or assigns, fails to develop, use or maintain the subject property, building or structure in accordance with the approved plans, the requirements of this Part 2, or any additional requirements lawfully imposed by the approval body.
- (1) Before a zoning, sign, special exception or special development approval/permit may be revoked, all notice and hearing requirements provided herein shall be complied with.
 - (a) Before a zoning, sign, **preliminary site/landscape plan, variance**, special development or special exception approval/permit may be revoked, the Zoning Administrator shall give the approval/permit recipient 10 days' prior written notice of intent to revoke the approval/permit. The notice shall state the reasons for the revocation and the right to obtain an informal hearing before the Zoning Administrator on the allegations, if a hearing is requested within 10 days of the notice date.
 - (b) Following a hearing, or if a hearing was not requested, the Zoning Administrator shall make a written recommendation regarding revocation of the subject approval/permit to the Board of Town Commissioners.
 - (c) If revocation is recommended by the Zoning Administrator, a hearing shall be held before the Board of Town Commissioners, which shall render a final decision on the issue.
 - (d) The burden of presenting evidence sufficient for the Board to conclude that an approval/permit should be revoked shall be upon the party advocating that position.
 - (e) A final decision to revoke an approval/permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the decision. A written decision shall be provided to the approval/permit holder.
 - (2) No persons may continue to make use of any property, buildings or structure in the manner authorized by any zoning, sign, **preliminary site/landscape plan, variance**, special development or special exception approval/permit after such approval/permit has been revoked in accordance with this subsection.
- F. Judicial review. Any Board of Town Commissioners, Planning Commission or Board of Appeals decision denying or granting a piecemeal rezoning request; designating an historic district or historic site; revoking an approval of a permit; or granting or denying a special development, preliminary plan, special exception, variance or ruling on an interpretation by the Zoning Administrator shall be subject to appeal. If such a decision is appealed, a petition for appeal shall be filed with the Circuit Court of Harford County within 30 days of issuance of the written decision.

§ 165-21 **Annual growth report; adequacy standards.**

A. Annual growth report.

- (1) A copy of the approved Harford County Annual Growth Report, as referenced in § 267-126A(3)(a) and 267-126B(2)(b) of the Harford County Development Regulations, shall be submitted **to by** the Town's Director of Planning and Community Development **to the Board of Town Commissioners** in July of each year. An amended version of the report will be submitted

~~to the Board of Town Commissioners~~ in January of each year, incorporating amendments to the annual growth report as adopted by the county. **If the adjusted enrollment calculations reflect a change in the current development review policy by the Town, the report will be forwarded to the Board of Town Commissioners for acceptance.**

- (2) The report, as required by the Harford County Development Regulations, is prepared by the Harford County Department of Planning and Zoning and includes a specific analysis of the current and future utilization and capacity of school facilities, including the following:
 - (a) Full-time enrollment for the schools serving the Town of Bel Air as of September 30, or as of any other official reporting date as set by the State Board of Education or the County Board of Education;
 - (b) Rated capacity and utilization percentage of each pertinent school facility, with capacity based on state-rated capacity;
 - (c) One-year, two-year and three-year, enrollment projections for each pertinent facility, including a description of the method of projecting enrollment in each facility; **[Amended 4-3-2017 by Ord. No. 780-17]**
 - (d) Pupil yield factor by school level for each type of dwelling unit;
 - (e) List of approved capital projects for new or expanded school facilities and the identified schools that will be relieved, including projected enrollment and opening date;
 - (f) School district maps for each level of school facilities; and
 - (g) Modified enrollment projections for each district, which include planned units remaining (recorded lots and units projected from approved preliminary plans) and projected units from vacant land zoned for residential purposes.
- B. Adequacy standards (minimum acceptable level of service). Upon acceptance of the annual growth report by the Board of Town Commissioners, all approvals of residential single-family subdivision plans and site plans for multifamily development shall be subject to findings of adequate school capacity based on the standards set in this subsection and the current and projected use level described in the annual growth report:
 - (1) Preliminary approval. Preliminary subdivision plans exceeding five lots and site plans for multifamily residential developments exceeding five dwelling units shall not be approved at locations where either of the following conditions exist: **[Amended 4-3-2017 by Ord. No. 780-17; 9-16-2019 by Ord. No. 792-19]**
 - (a) The enrollment, at the elementary school which then serves the site and all abutting elementary school attendance areas, is greater than 110% of the rated capacity or is projected to be greater than 110% within three years; or
 - (b) The enrollment, of either the middle school or high school which serves the site and all abutting respective middle and high school attendance areas, is greater than 110% of the rated capacity or is projected to be greater than 110% within three years.
 - (2) Conditional review. If Subsection **B(1)(a)** or **(b)** of this section prevents approval of a

subdivision plan or a site plan, the Planning Commission may proceed with conditional review of the plan and place it on a waiting list arranged by the date of completion of the review. This section shall not extend subdivision plan or site plan approval beyond two years from the date of final decision. One-year extensions of an approved plan may be requested without limitation during the period of development deferral. Record plats, grading permits, and public works agreements for utilities or roads shall not be executed by the Town until the plan for the project is removed from the waiting list and approval is granted. Removal from the waiting list shall occur only when the condition that prevented approval under Subsection **B(1)(a)** or **(b)** of this section no longer exists. **[Amended 9-16-2019 by Ord. No. 792-19]**

- (3) Exemptions. The provisions of this subsection shall not apply to transient housing or fifty-five-and-over housing.