

**City of Frederick Planning Commission**  
**Rules of Procedure**  
(Approved May 11, 2020)

**INTRODUCTION**

Pursuant to Article 66B the Maryland Annotated Code, the Planning Commission adopts these Rules of Procedure to govern the transaction of its business.

**SECTION 1. OFFICERS OF THE COMMISSION**

- 1.1 The Commission shall meet each January to elect a chairman, vice-chairman and secretary. If an officer leaves the Commission prior to the January annual election, elections will be held for the vacant office(s).
- 1.2 The chairman, or in his absence, the vice-chairman or secretary (in that order) shall preside at all meetings and hearings of the Commission. The presiding officer shall decide on all points of order and procedure, subject to these rules, unless otherwise directed by a majority of the Commission members present.

**SECTION 2. MEETINGS**

- 2.1 Regular meetings generally will be held at 6 p.m. on the second Monday of each month, unless amended by the published Planning Commission schedule. It shall be the duty of each member to familiarize themselves with the properties under consideration for that month's regular meeting.
- 2.2 Should inclement weather or other unforeseen events necessitate a change of meeting date, the planning staff shall notify each member by telephone and notify the public via radio, website, or public access television of the cancellation and the time and date of the rescheduled meeting.
- 2.3 A workshop shall be held at 2 p.m. on the third Monday of the month to review new development proposals and other items tentatively scheduled for the next regular meeting by the Commission, unless amended by the published Planning Commission schedule. Public comment shall be permitted at the discretion of the Chair or presiding officer. The time for public comment shall be limited to 3 minutes or less as determined by the Chair or presiding officer.
- 2.4 Unless amended by the published Planning Commission schedule, a Pre-Planning Commission meeting will be held at 3 p.m. on Friday of the week prior to the regular monthly meeting.
- 2.5 Special meetings may be called by the chairman, or in his absence, the vice-chairman. Should there be a need for a special meeting the Planning staff shall notify each member of the special meeting by telephone or email at least 48 hours

before the meeting. The planning staff shall notify the public via radio, website, or public access television of the time and date of the special meeting.

- 2.6 It shall be the duty of each member to attend all the meetings. Should any member be absent for more than 25% of the hearings, more than 25% of the workshops, or more than 50% of the field trip meetings during any 12 month period, the Commission shall recommend to the Mayor and Board of Aldermen that the member's resignation be requested. If a majority of Commission members finds that there is a excuse for nonattendance, the recommendation for resignation may be withheld.
- 2.7 The order of business shall be in accordance with the agenda prepared by the planning staff in consultation with the Chairman. The order of the agenda maybe amended at the meeting by an affirmative vote of a majority of the Commission members present.
- 2.8 All meetings shall be held in accordance with the requirements of the Maryland Open Meetings Act and shall be public meetings except when permitted to be closed by the Act.
- 2.9 The planning staff shall keep a true and accurate record of all Planning Commission proceedings. A recording may be accepted as the official record until the minutes are prepared and approved by the Commission. The minutes shall be typed and distributed to the members and, once approved by the Commission, will become the official record. The minutes will be available for public inspection at the Planning Department during normal business hours.
- 2.10 Emergencies. During a state of emergency or other emergency situation during which it is impossible or impracticable for the Planning Commission to convene in person, as determined by the Mayor, the Planning Commission may conduct business in a modified manner. For purposes of this provision, such "modified manner" includes but is not limited to conducting the meeting online via a teleconferencing platform. -- Any meeting conducted in a modified manner will be in accordance with the Open Meetings Act and any other applicable law and to the greatest extent practicable adhere to these Rules.

In the event that a meeting must be conducted in a modified manner or cancelled, the Planning Department will notify each Planning Commission member by telephone or email and will notify the public via the City's website and cable television channel 99.

### **SECTION 3. PUBLIC HEARINGS**

- 3.1 All public hearings shall be in accordance with the provisions of the Land Management Code.

- 3.2. The chairman or other presiding officer shall administer the following oath to all witnesses testifying in any matter coming before the Commission:

*"Do you solemnly swear or affirm that the responses given and statements made in this hearing before the Planning Commission will be the whole truth and nothing but the truth? If so, answer "I do."*

The presiding officer may administer the oath en masse at the outset of the hearing, as outlined in Rule 3.4.B, to all prospective witnesses intending to testify for that case. Before giving testimony, each witness shall state his or her name and whether he or she has been sworn. The presiding officer will administer the oath individually to any witness who has not been sworn before that witness gives testimony. Any person refusing to be sworn will not be permitted to testify.

- 3.3 The petitioner may appear on his own behalf or be represented by an agent. In the absence of any personal appearance on behalf of the petitioner, the Commission may proceed to dispose of the matter on the record before it, or may continue the item to a specific date.

Time allocation for each category of testimony before the Commission is as follows:

Applicant Initial Presentation	15 minutes
Applicant Rebuttal Presentation	10 minutes
Individual Testimony	3 minutes
Group Testimony	10 minutes

Extensions of time for testimony may be granted by the presiding officer.

For the purposes of this rule, a group is defined as an authorized person from a recognized group.

- 3.4 The order of a public hearing shall be as follows:

- A. ADMINISTRATIVE BUSINESS
- B. EN MASSE SWEARING IN OF ALL PERSONS TESTIFYING
- C. ANNOUNCEMENT OF MEMBER RECUSAL OR DISCLOSURE OF EX PARTE COMMUNICATIONS
- D. INTRODUCTION OF CASE BY THE PLANNING STAFF
- E. INITIAL PLANNING STAFF RECOMMENDATION
- F. PLANNING COMMISSION QUESTIONING OF STAFF
- G. PRESENTATION OF THE CASE BY THE PETITIONER/APPLICANT OR HIS AGENT OR ATTORNEY
- H. PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT
- I. PUBLIC COMMENT/PLANNING COMMISSION QUESTIONING OF PUBLIC

- J. PETITIONER REBUTTAL
  - K. PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF
  - L. RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION
  - M. PLANNING COMMISSION ACTION
  - N. CHAIRMAN DISMISSAL
- 3.5 In case of a lack of a quorum all cases shall automatically be continued until a specific announced date and time. In the event of a loss of a quorum the case being heard will be continued until later in the meeting or until a specific announced date and time if required.
- 3.6 The Commission may require of the petitioner any additional information or material in the form of maps, charts, reports, studies or other documentation in order to reach a decision and may continue a case to a specific date and time in order to receive the required information.

**SECTION 4. VOTING**

- 4.1 A quorum for each case consists of three regular members or two regular members and one alternate, each of whom is qualified to vote on that case.
- 4.2 If a Commission member recuses himself or herself from any portion of an agenda item, he or she is disqualified from voting on the agenda item and items related to it.
- 4.3 If a Commission member abstains from voting on an agenda item, that member will still count for the purposes of determining if a quorum is present. An abstention does not count as a positive or negative vote
- 4.4 A member shall not vote on a matter in which he or she has a conflict of interest as defined by the City’s Ethics laws. Members are encouraged to consult the City Attorney as to the propriety of their voting on any matter which may involve a conflict of interest.
- 4.5 A member shall recuse or disqualify himself from participation to avoid a conflict of interest. Any member intending to recuse oneself from the agenda item shall announce their recusal once the agenda item has been introduced and shall leave the Commission dais for the duration of that agenda item.
- 4.6 The alternate member who is eligible to vote pursuant to the requirements outlined in Section 4.9 of these Rules, may vote only if a regular member is absent, recused or is otherwise ineligible to vote. For the purposes of this rule, the term “absent” includes a unfilled vacancy of one of the Commission member positions.

- 4.7 Items put to a vote are decided by a majority of the members present, qualified and voting. The Chairman may make motions and vote on all items.
- 4.8 A tie vote by the Commission shall be interpreted as a defeat of the motion upon which the vote was taken.
- 4.9 In order to be eligible to vote on an item, a member must have either (1) attended all meetings at which the item was discussed; or (2) reviewed the minutes or tape recording of any meetings from which the member was absent.
- 4.10 In order to be put to a vote a motion must be seconded. Members' votes shall be recorded on each motion.
  - A. A member present but not voting in an audible manner shall have his vote counted as affirmative, unless he or she specifically signifies his or her abstention.

#### **SECTION 5. PROCEDURE IN BRINGING MATTERS BEFORE THE COMMISSION**

- 5.1 The agenda shall be prepared by the planning staff in consultation with the Chairman. Members of the Commission who wish to add any item to the agenda shall first notify the planning staff in consultation with the Chairman of their request at least fifteen (15) days prior to the meeting. Unscheduled items not requiring public notice may be added to the agenda during the meeting if they are presented in writing and only after unanimous vote of approval of the members present.
- 5.2 Agenda items once acted upon must wait until the next regular meeting for reconsideration.
- 5.3 All applications for any item requiring a public hearing must be filed in accordance with applicable provisions of the Land Management Code and the approved Planning Commission Schedule. A copy of the Planning staff reports for agenda items shall be available for public inspection on the Friday before the public hearing.
- 5.4 Miscellaneous requests and petitions for planning matters shall, from time to time, come before the Commission either upon the initiation of an individual or agency, or by reference from the governing body. In all cases, the Commission shall be guided by the principles set forth in the Comprehensive Plan; the Land Management Code, and rules, regulations and ordinances of the City. All such matters shall be handled with as much dispatch as possible.
- 5.5 The preferred order of the Planning Commission agenda shall be as follows:

- A. Consent Agenda Items
  - 1. Final Subdivision Plat with no conditions of approval.
  - 2. Final Site Plans with no conditions of approval.
  - 3. Combined Forest Stand Delineation/Preliminary Forest Conservation Plans, where fee in lieu of afforestation is being paid and no conditions of approval.
  - 4. Preliminary Forest Conservation Plans with no conditions approval (if the Development Plan does not have any conditions, as well).

(All matters included under the Consent Agenda are considered to be routine by the Planning Commission. They will be enacted by one motion in the form listed below, without separate discussion of each item, unless any person present – Planning Commissioner, Planning Staff or citizen -- requests an item or items to be removed from the Consent Agenda. Any item removed from the Consent Agenda will be considered separately at the end of the Consent Agenda.)

- B. Annexations, Map, and Text Amendments (Old business first, than new business).
- C. Master Plans, Area Plans, PND (Old business first, than new business).
- D. Preliminary Subdivision Plats– (Old Business first, then new business).
- E. Final Site Plans – (Old Business first, then new business).
- F. Final Subdivision Plats – (Old Business first, then new business).
- G. Miscellaneous.

\* Final determination of the agenda will be coordinated between the Planning Commission Chairman and Planning staff. All cases associated with one project shall be grouped together.

**SECTION 6. CONDUCT OF COMMISSION MEMBERS.**

- 6.1 Members shall at all times act in accordance with the Ethics laws of the City of Frederick, as codified at Chapter 21 of the Frederick City Code, as amended from time to time.
- 6.2 Speaking for the Commission. A member will not appear to speak for the Commission except as authorized by the Commission. In any public or private statement concerning Commission affairs, members will carefully indicate whether they are speaking for the Commission or for themselves.
- 6.3 Privileged information. Members shall not engage in any business transaction in regard to which they have an advantage because of privileged or confidential information gained through membership on the Commission.
- 6.4 Conduct at meetings. Members shall conduct themselves at Commission meetings in a fair, understanding and gracious manner. They shall seek to be considerate of all individuals, attitudes and differences of opinion involved in official Commission business.

- 6.5 Ex Parte Communications Prohibited: An ex parte communication includes an oral or written communication not on the public record to which reasonable prior notice to all parties is not given. Such communication between Commission members and interested persons is prohibited if relevant to the merits of a Commission proceeding. Members should not discuss applications with applicants or other interested persons outside the confines of a public meeting, but should recommend that the person(s) contact Staff with any questions or concerns.
- 6.6 Disclosure of Ex Parte Communications: If a member does inadvertently engage in an ex parte communication, the member should - at the next meeting in which the relevant application is to be discussed - state the nature of the communication and submit for the record any written communication received, any written response to a communication, state the substance of each oral communication received, and state the substance of any oral response to a communication. Alternatively, the member may recuse himself or herself from voting on that specific application.

## **SECTION 7. FINAL DISPOSITION OF MATTERS**

- 7.1 Final disposition of all matters shall be in the form required by the Land Management Code, or other applicable laws. Items requiring further action by the governing body shall be in the form of a letter of recommendation to the Mayor and Board of Aldermen. The applicant or his representative for every petition or request shall be notified by letter of the Commission's action. This letter may be disseminated either through email or US Postal Service. The effective date of the final disposition is as follows: if sent by email, the date that the email was sent, if sent by US Postal Service, three days after the mailing date.

## **SECTION 8. RECONSIDERATION OF FINAL DISPOSITION**

- 8.1 Generally. The Deputy Director for Planning or an applicant may petition the Commission for reconsideration of the final action by the Commission within ten (10) days of the final disposition of the matter as referenced in Section 7.1. Requests for reconsideration shall be in writing, and shall be filed with the Planning Department. The Chairman may waive the filing deadline for good cause shown. The Deputy Director for Planning or the applicant, whoever requested the reconsideration must serve a copy of its request on any party who participated in the hearing either thorough verbal or written comment. The Planning Department shall be responsible for providing the requestor a copy of the parties of record within a reasonable period of time following the filing of the reconsideration petition. The written petition for reconsideration should state fully the reasons for seeking the reconsideration based on mistake, inadvertence, surprise, fraud, or other good cause. Failure to comply with this requirement may result in rejection, at the Chairman's discretion, of the request for reconsideration.

- 8.2 Decision to Reconsider. Petitions for reconsideration will be brought before the Commission at the next public meeting. A motion to reconsider may be made only by a member of the Commission who voted in the majority of the decision that is subject to the request for reconsideration. A decision to reconsider (a) does not require notice to the public or parties of record in any manner other than by publication on the Planning Commission agenda, (b) may be taken without the appearance or testimony of the parties, and (c) is properly before the Planning Commission based only on the written petition presented according to this Rule.
- 8.3 Notice of Public Hearing on Matters Reconsidered. After a decision by the Planning Commission to reconsider its decision, the Chairman will promptly schedule a public hearing to be held in accordance with the Land Management Code and the Planning Commission Schedule.
- 8.4 A request for reconsideration does not toll any appeals' deadline.

**SECTION 9. RELATIONSHIPS WITH OTHER PLANNING COMMISSIONS, AGENCIES AND GOVERNMENTAL BODIES.**

- 9.1 The Commission will, where appropriate, assist and coordinate its activities with County and State agencies.
- 9.2 The Commission may join state or national citizen planners associations, subscribe to publications and participate in seminars or continuing education programs to aid its members in the conduct of their duties.

**SECTION 10. COMMISSION - STAFF RELATIONSHIPS**

- 10.1 The planning staff is the contact for all communications between Commission members and the public. Commission members take no part in the daily staff routine of administration and regulations and research of matters of fact, although they do participate in field trips and discussion pertaining to the more significant matters to be considered at Commission meetings.
- 10.2 Matters of policy and important changes in the administration of the Commission's affairs are developed by the planning staff on behalf of the Commission and presented for resolution to members at regular meetings.

**SECTION 11. ADOPTED POLICIES**

- 11.1 From time to time the Planning Commission may adopt policies related to the Commissioner's operations. The following policies are hereby incorporated by reference:
- A. Conditions of Approval.
  - B. Continuation Policy.
  - C. Sign Posting.

**SECTION 12. AMENDMENTS**

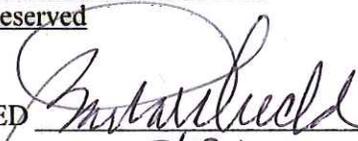
12.1 Amendments to these rules of procedures may be introduced at any meeting of the Commission and voted on at any subsequent regular meeting, provided public notice is advertised in the newspaper at least fifteen (15) days prior to the vote on the amendment.

**SECTION 13. SUSPENSION OF RULES**

13.1 Any provision of these rules not governed by the City Charter or the City Code may be temporarily suspended by an affirmative vote of a majority of the Commission members present. The vote of any such suspension shall be taken and entered into the record.

**SECTION 14. DEFINITIONS**

Reserved

ADOPTED   
Date 5/18/2020  
Chairman

ADOPTED   
Date 5/18/2020  
Secretary

cc: Mayor and Board of Aldermen  
City Attorney