

# **DOUGLAS COUNTY PLANNING COMMISSION BYLAWS<sup>1</sup>**

## **1. BYLAWS**

- 1.1 The Douglas County Planning Commission, (Planning Commission) pursuant to the Nevada Revised Statutes (NRS), Chapter 278 and Douglas County Code (DCC), has the responsibility for adopting a Master Plan which is a comprehensive long term general plan for the physical development of the County; recommending development code amendments; and providing a recommendation or approving specified development applications. In furtherance of these responsibilities the Planning Commission adopts the following bylaws pursuant to DCC and from time to time may amend said bylaws. These bylaws are for the benefit of the Douglas County Planning Commission and do not confer any rights upon third persons. Robert's Rules of Order, as amended and applicable, may be used for guidance when a question or controversy arises that is not answered by NRS, DCC or these bylaws.

## **2. ELECTION OF OFFICERS; POWERS AND DUTIES**

- 2.1 The Planning Commission shall, at its first regular meeting in February, elect from its membership a Chair and Vice-Chair and each shall serve for a term of one year or until the expiration of his/her term, whichever occurs first, with the Chair eligible for re-election to one additional consecutive year.
- 2.2 The Chair is responsible for presiding over the Planning Commission meetings, for placing items on the agenda as may be requested by the Planning Commission, and reviewing the draft agenda. He/she shall exercise general supervision over the business, papers and property of the Commission and shall execute all formal documents on behalf of the Commission.
- 2.3 The Vice-Chair acts as Chair in his/her absence.
- 2.4 In absence of both the Chair and Vice-Chair, the quorum present shall appoint a Chair Pro-tempore by majority vote.
- 2.5 The Chair shall recognize members of the Planning Commission, staff and citizens desiring to speak during meetings.
- 2.6 All questions and remarks during meetings shall be addressed to the Chair. The Chair may rule out of order and admonish any person that makes personal derogatory or disrespectful comments about individual members of the Commission, staff or participants.
- 2.7 If any person willfully disrupts a Planning Commission meeting, the Chair, after giving a warning, if reasonable under the circumstances, may admonish him/her or may bar such person

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<sup>1</sup> These bylaws serve as the Planning Commission's rules for transacting business as allowed per DCC 2.06.050, as amended.

from further audiences before the Planning Commission during the meeting. If such person does not remove himself/herself, the Chair may cause the removal of that person for the Planning Commission meeting.

- 2.8 The Chair may call for a short recess during a Planning Commission meeting when deemed necessary.
- 2.9 Commissioners have a duty to preserve order and decorum at meetings, including:
- a. Treating fellow Commissioners, staff, applicants and the public with professionalism, respect and courtesy;
  - b. Honoring the role of the Chair in maintaining order;
  - c. Giving a signal to the Chair indicating they want to speak. The Chair will acknowledge them before they begin speaking;
  - d. Efficiently conducting business. Commissioners shall be attentive to the proceedings and refrain from engaging in private conversations; performing tasks not associated with the meeting or otherwise delay or interrupt the proceedings;
  - e. Practicing civility in discussions and debates; and
  - f. Valuing each Commissioners' time and opinion. Recognizing Commissioners may disagree with each other, but they will always respect and value each other as individuals.

### **3. MEETINGS, STUDY SESSIONS, AGENDAS AND STAFF REPORTS**

3.1 Meetings shall comply with the Nevada open meeting laws, NRS Chapter 241, as amended.

#### **3.2 Regular Meetings:**

Regular meetings of the Planning Commission shall be held on the second Tuesday of each calendar month. If the regular meeting date falls on a holiday (non-judicial day), the meeting shall then be held on the next business day. In the event, the regular meeting date interferes with a special event using the Commissioner Meeting Room of the Douglas County Administrative Building (Historic Courthouse), the meeting shall be held on an alternate date and/or at an alternate meeting facility as determined by the Planning Commission. All regular meetings of the Planning Commission will be called to order at 1:00 p.m., unless advertised otherwise, canceled or rescheduled. The Community Development Director or the Planning Manager will provide notice of any continued hearing or other unfinished business, as may be required by law.

#### **3.3 Emergency or Special Meetings:**

An emergency or special meeting may be called at any time by the Chair of the Planning Commission or by a majority of the members of the Planning Commission. A special meeting is convened to address important matters that may arise between regular meetings that require discussion or action. Written notice shall be provided pursuant to the applicable NRS provisions. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at the meeting.

3.4 Study Sessions/Workshops:

The Planning Commission may hold a study session/workshop as part of a regular or as a special meeting. When an item is scheduled for a study session/workshop, for discussion only, public comment will be taken as required by the open meeting law, NRS Chapter 241. A record of the study sessions/workshop on specific matters for which public hearings are anticipated shall be entered into the minutes of any such future public hearings so the record will indicate whether any information received at the study sessions/workshop was taken into consideration as evidence at the subsequent public hearings.

3.5 Open and Closed Sessions:

Except as otherwise provided in these bylaws or NRS, all meetings of the Planning Commission shall be open and public, and all persons shall be permitted to attend. The Planning Commission may hold a closed session during a regular or special meeting, or at any time otherwise authorized by law, to consider or hear any matter it is authorized by state law to hear or consider in closed session.

3.6 Quorum:

A quorum shall consist of four Planning Commissioners; however except those actions where the minimum number of affirmative votes is specifically set forth in NRS or DCC.

- 3.6.1 Should members of the Planning Commission be invited to other meetings or events in their capacity as a Planning Commissioner, then the Community Development Director or Planning Manager will poll the members to determine which members would like to attend the function. Should a majority of the Commissioners respond affirmatively then staff shall prepare a notice indicating a quorum of the Planning Commission maybe attending a meeting or function. Should there not be enough time for staff to prepare the proper notice then three (3) or less Planning Commissioners shall be the maximum number that can attend a function. The preference to which Commissioners can attend a meeting or function will be on the basis of who has responded in a timely fashion.

3.7 Agendas:

The Community Development Director or Planning Manager shall prepare, post, publish and mail the Planning Commission agenda. Agendas must comply with the Nevada open meeting law, NRS Chapter 241, as amended. At least ten (10) days prior to a regular meeting, notice of a public hearing item shall be posted and/or published as may be required by NRS, Chapter 278 and DCC, Title 20.

- 3.7.1 Any individual Planning Commissioner may request relevant topics be placed on the agenda provided that the request is timely. At the Chair's discretion the topic may be postponed, but no later than the next regular meeting of the Planning Commission.
- 3.7.2 The Planning Commission may not take action on any item that did not appear on the posted agenda. The Chair may rearrange the order of items appearing on the agenda, may combine two or more agenda items for consideration and may

remove or delay an item as he/she may deem necessary or desirable for the conduct of the meeting. No person shall be entitled to rely upon the order in which public hearing items appear on the posted agenda, and any public hearing on any agenda may commence immediately upon the time the meeting is called to order.

3.8 Staff Reports:

When planning staff reports exist, they shall be made public before or at the beginning of any hearing or meeting. Staff reports shall be prepared with recommendations and the basis for recommendations, and included in the hearing record on any application. Reports or recommendations on applications/requests shall be provided in writing and shall be transmitted to the applicant at least three (3) days before any hearing or action on the project by the Planning Commission.

3.9 Annual Updates of Documents:

The Community Development Department shall provide to the members, on an annual basis, updated pages pertaining to the master plan, the development code, and the design manual.

4. **ETHICS AND GENERAL RESPONSIBILITIES OF PLANNING COMMISSIONERS**

4.1 Conflict of Interest:

Planning Commissioners shall comply with state and county regulations related to conflict of interest.

4.1.1 In connection with matters coming before the Planning Commission, NRS, Chapter 281A.420, as amended, discusses three circumstances where disclosure and abstention may be required. These three circumstances include when a member of the Commission has: received a gift or loan, a pecuniary interest, or a commitment in a private capacity to others in connection with the matter, (i.e.: familial relationship, business relationship or close personal friendship).

4.1.2. If a member of the Commission has an ownership interest in property or a project being considered individually for a master plan amendment, re-zoning, special use permit, variance, tentative map or an entitlement, the member must abstain, but may address the Commission to discuss facts about the property but must not ask, advocate or give any reasons for or against a vote.

4.1.3. The Legislature encourages appointed or elected members of public bodies to vote, not abstain. NRS 281A.420(4)(b) states: "Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs the provisions of NRS 281A.420 are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, the public officer's pecuniary interest, or the public officer's commitment in a private capacity to the interests of others."

4.1.4 It shall be the policy of the Planning Commission that the appearance of a conflict of interest is as prejudicial in nature for the credibility of the Planning Commission as an actual conflict of interest. Planning Commissioners, on behalf of the good of the Planning Commission and to maintain its public credibility, shall utilize discretion and judgment and should disclose any appearance of conflict. If a Planning Commissioner is uncertain as to the merit of a possible conflict of interest, he/she should consult with the District Attorney.

4.2 Communication Outside of the Public Hearing or Meetings:

Planning Commissioners shall be discreet in the discussion of pending matters outside of the meeting forum. No commitments or prejudicial comments shall be made prior to a public hearing in advance of any official action.

4.2.1 Commissioners should avoid ex parte communications with parties who have an interest in a pending matter or anticipated to be brought before the Planning Commission. Parties should be encouraged to discuss their comments with staff or at the public hearing rather than privately with individual Planning Commission members. Unsolicited correspondence and emails should be preserved so they may be put in the record. Commissioners must disclose all ex parte communications.

4.2.2 If during any such ex parte contacts, a member of the Planning Commission obtains information that he/she might consider as important when deciding an adjudicative matter, the Commissioner must assure the information is: already public knowledge, has been included in the reports or presentations, or disclosed or otherwise brought out at the public hearing so that interested parties may have an opportunity to comment on it.

4.3 Agenda Items and On-Site Inspections:

Commissioners may find it helpful to physically inspect properties involved in the agenda items, and this can be accomplished by an individual Planning Commissioner at their convenience. However, when an applicant arranges for a tour of the property in question in order to clarify potential issues pertaining to their application, it is strongly recommended that two or three Planning Commissioners attend jointly.

4.4 Construction and Effect of Planning Bylaws:

No Planning Commissioner(s) shall intentionally set forth to participate in, be party to, or cause to take place any planning and zoning action which is in violation of the codes over which the Planning Commission is an administrator. Such intentional action shall be grounds for the Planning Commission to request the Board of County Commissioners to consider removal of that Planning Commissioner.

4.5 Representations in Public:

At public and private functions at which a Planning Commissioner is present as an individual, each Planning Commissioner shall be careful to indicate when he/she is representing the Planning Commission or acting as a private citizen. Unless specifically directed by the Chair to be a representative of the Planning Commission, members should resist speaking on the Planning Commission's behalf.

4.6 Gifts and Gratuities:

Planning Commissioners should not accept any gifts from applicants, representatives of applicants, or other persons, institutions, associations, or organizations concerned with matters which have either been or are before the Planning Commission. Even a well-intentioned and innocent action has the appearance of a conflict of interest.

4.7 Attendance and Preparation:

Planning Commissioners shall make a diligent effort to attend all meetings, and be properly prepared to discuss the issues calendared for the meetings. Planning Commissioners shall also inform themselves concerning the laws, ordinances, regulations, and policies related to areas under its jurisdiction. Each member of the Planning Commission who will be unable to attend a meeting of the Planning Commission must notify the Planning Manager of the Community Development Department and Chair not later than 5:00 p.m. on the day prior to the date of the meeting or at the earliest opportunity of his/her unavailability.

**5. PRESENTATION OF AGENDA ITEMS**

5.1 Minutes and Recording:

Hearings on matters before the Planning Commission must be recorded by electronic device or transcribed and preserved for public inspection for at least a one year period. Minutes of all meetings will be formally submitted to the Planning Commission for approval. The minutes shall accurately reflect the business conducted at the meeting, and shall also include a record of those Planning Commissioners in attendance. Corrections to the minutes by any Planning Commission member will be limited to typographical errors or other errors or corrections as may be determined by listening to the recording. Unless it is decided otherwise by the Chair, the approval for previous meetings shall precede the regular order of business. Minutes shall be kept for at least five years and then archived in accordance with NRS, Chapter 239.

5.2 Order of Presentation:

Unless the Chair in his or her discretion directs otherwise, the order for presentation of public hearing items should be as follows:

- a. Chair will read the agenda title into the public record.
- b. Staff will introduce the item and provide a report, if any. Planning Commission members may ask questions.
- c. Applicant, if any, will have an opportunity to present and address the Planning Commission. Planning Commission members may ask questions.

- d. The Planning Commission may then discuss/comment on the item, including seeking clarification or asking further questions. Once the Planning Commission has concluded its discussion, public comment will be allowed.
- e. Public comment taken.
- f. Once public comment is completed, the Planning Commission, at the Chair's discretion, will then allow for rebuttal from staff and the applicant. The Chair shall decide what is reasonable, and is not required to afford equal time for each public comment.
- g. The Planning Commission will then take action by motion.

Public hearings may be reopened at any time during the meeting to permit additional testimony and evidence, either to permit reconsideration of an action or for any other reason.

5.3 Evidence:

Hearings and meetings before the Planning Commission need not be conducted according to formal rules of evidence. Any relevant evidence may be considered if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs. The Chair may exclude irrelevant or redundant testimony and may make such other rulings as may be necessary for the orderly conduct of the proceedings while ensuring basic fairness and full consideration of the issues involved.

5.4 Burden of Proof:

The burden of proof of all legal prerequisites to the granting of the relief or action sought shall be upon the party requesting such relief or action.

5.5 Oral Evidence, Time Limits, and Number of Speakers:

Any person desiring to speak must first be recognized by the Chair. All comments must be made clearly and audibly, and all speakers must first state their full names and disclose on whose behalf, if other than themselves, they are appearing. In order to expedite the conduct of hearings the Chair, as stated on the agenda or as announced at the beginning of public comment, may limit the amount of time which a person other than the applicant or appellant may use in addressing the Planning Commission. The Chair may also limit the number of speakers or amount of testimony upon a particular issue in order to avoid repetitious and cumulative comments. Except when necessary for immediate clarification of a particular point, no person shall be allowed to speak a second time until all others wishing to speak have had an opportunity to do so, and then only at the discretion of the Chair.

5.6 Questioning of Speakers:

Any person other than a Planning Commission member desiring to direct a question to a speaker or staff member shall submit the question to the Chair, who shall determine whether the question is relevant to the subject of the hearing and whether or not it should be answered by the speaker or staff member.

5.7 District Attorney:

Any member of the Planning Commission may request the District Attorney or his or her deputy to explain the legal principles and standards pertinent to the Planning Commissions'

action on a particular matter. The District Attorney or his or her deputy may further advise the Chair on matters of evidence and procedure which may arise, including, but not limited to, the desirability of closed sessions to discuss pending or potential litigation.

## **6. MOTIONS**

### **6.1 Motions – Second:**

Actions upon an order, resolution, ordinance or other action of the Planning Commission may be proposed by any member by a motion. The Chair may make a motion only after all other members of the Planning Commission present have had an opportunity to make a motion on the question. Before a motion can be considered or debated it must be seconded at which time it shall be on the floor and must be considered. If not seconded, the motion is lost for lack of second and shall be so declared by the Chair.

### **6.2 Withdrawal of Motion or Second:**

A motion may be withdrawn by the maker at any time before adoption or rejection, with consent of the second. A second to a motion may be withdrawn by the seconding member at any time before adoption or rejection of the motion. The motion will then be lost for lack of a second and so declared by the Chair unless seconded by another person.

### **6.3 Discussion, Closure, and Question:**

After a motion has been seconded, any member may discuss or comment on the subject or the motion. The Chair will recognize members of the Planning Commission desiring to speak, beginning with the motion's maker, and will protect each speaker from disturbance or interference. Individual members are encouraged to discuss their views of the evidence and why they are going to vote for or against the motion. If findings of fact are required for approval of an item, members are encouraged to individually discuss proposed findings but, at a minimum, discuss those findings that he/she cannot agree with. When no member wishes to discuss or comment further, the Chair will call for a vote on the motion.

### **6.4 Motions for Reconsideration:**

Motions for reconsideration of a matter may be made by any member who voted with the prevailing majority on the matter to be reconsidered. Any member of the Planning Commission may second a motion to reconsider. Motions to reconsider shall be made in the same meeting as the original motion. If the matter to be reconsidered was considered a public hearing, the public hearing will be reopened before additional evidence is received.

## **7. DECISION-MAKING**

### **7.1 Voting:**

Approval of any motion brought before the Planning Commission shall require the affirmative vote of a majority of the members present, unless otherwise specified by law. Specifically, NRS and DCC require a two-thirds vote of the total membership of the Planning Commission to approve a motion for a Master Plan Amendment.



7.1.1 Tie Votes:

A tie vote results in a failed motion. A tie vote is neither a denial nor approval of the motion. A denial and an approval are both “actions” requiring a majority vote. If there is a tie vote and there are less than seven Planning Commissioners present, upon consent of the applicant, the matter shall be continued to the next regular meeting of the Planning Commission to allow any absent members to vote on the matter. If the applicant does not consent and the Planning Commission is not sitting as an appellate body, the Planning Commission may make subsequent motions. If the matter involves an appeal and an affirmative vote does not occur, the result is that the decision appealed stands as decided by the decision-maker from which the appeal was taken.

7.1.2 Abstentions:

Abstentions shall not count as votes for the purpose of determining whether there has been an affirmative vote by the majority of the members present, but shall be counted for the purpose of determining whether a quorum is present. Planning Commissioners desiring to abstain on a question shall do so at the time the agenda item is called, and shall state the reason for the abstention. Upon declaring an abstention, the abstaining member is not allowed to influence the Planning Commission with respect to the item, and shall retire to the general public area during the duration of the agenda item’s discussion.

7.1.3 Roll Call:

Voting upon a motion may, at the discretion of the Chair, and shall, upon the request of any member, be by roll call. When voting is not by roll call, the Chair may, in the absence of objection of any member of the Planning Commission, declare an item to be unanimously approved.

7.1.4 Motions Include Staff Recommendations:

A motion to adopt or approve staff recommendations or simply approve the action under consideration shall, unless otherwise particularly specified, be deemed to include adoption of all proposed findings and execution of all actions recommended in both the written staff report on file on the matter and any oral staff report presented during the hearing.

7.1.5 Absentees:

A Planning Commission member who is absent from any portion of a hearing conducted by the Planning Commission may vote on the matter at the time it is acted upon provided the member has listened to a recording of the entire portion of the hearing from which he/she was absent, has examined all of the exhibits presented and states for the record that the member deems himself/herself to be as familiar with the record and with the evidence presented at the hearing as he/she would have been had they personally attended the entire hearing.

7.2 Findings:

On any matter for which state law or County ordinance requires the preparation of written findings, the staff report submitted on the matter will contain findings proposed for adoption by the Planning Commission. Any motion directly or implicitly rejecting the proposed findings must include a statement of alternative or modified findings.

7.3 Continuances:

An applicant, County staff, member of the public, or member of the Planning Commission, may request a continuance on a particular item at the time set for hearing or after hearing testimony. Consistent with NRS and DCC, the Planning Commission may consider and order the hearing to be continued to a specified date and time. At the Chair's option, if a continuance is granted, the Planning Commission may still accept public testimony.

## **8. NEW AND SUPPORTING MATERIAL**

8.1 Submittal of Materials With Applications:

It shall be the policy of the Planning Commission that staff is directed not to schedule a matter before the Commission until such time that staff has determined that all required information has been submitted in a form and manner consistent with NRS and the policies of the Commission.

8.1.1 Staff is directed by the Commission that if an applicant who has submitted an incomplete application insists that the project go before the Commission, staff shall recommend denial on the basis of incomplete information in order to make the required findings to consider approval of the project.

8.1.2 The Commission may accept staff's recommendation for denial, or it may elect to continue the matter to a later date in order to receive complete information. If the applicant refuses to provide additional information, the policy of the Commission shall be to deny the project.

8.2 Major Revisions to Projects Occurring Between the Planning Commission Submittal Cut-Off Date and the Date of the Commission Hearing:

It shall be the policy of the Planning Commission that if a project applicant makes a major change or revision to the scope or content of an application; including providing voluminous and/or technical supporting documentation after the closing date for receipt of application materials and prior to the Planning Commission hearing, the Director of Community Development or Planning Manager shall request correspondence from the applicant for a continuance of the matter to the following month's meeting to adequately review the nature of the changes/revisions or materials.

a. Any changes or materials submitted by the applicant are to be considered "major" should it result in a change in design, site plan, or supporting documentation, which requires the materials to be re-circulated to reviewing agencies, reviewing County departments, including the Community Development or to be re-noticed.

b. The Director of Community Development or Planning Manager shall determine whether the changes or materials are “major changes to the scope or content of an application” or only the submittal of additional information which satisfies issues or questions raised by a reviewing agency, department or planning staff.

8.2.2 In the event that an applicant does not agree to a continuance, the Director or Manager shall recommend denial based on inadequate time to review the submitted changes/materials to determine appropriate findings as required by the DCC.

8.2.3 New materials should be submitted and received in the office of the Community Development Department not later than seventy-two (72) hours before the commencement of the meeting at which they are proposed to be considered. A minimum of 20 copies of the new materials shall be provided by the applicant.

8.3 Supporting Materials submitted at the Commission Hearing:

If supporting material, either for or against an item, is provided at the time of the public hearing, a minimum of 20 copies of the supporting material shall be provided to the Deputy Clerk-Treasurer responsible for maintaining the meeting record for distribution to the members of the Planning Commission, Community Development staff and the public.