



# Naperville

## **BY-LAWS**

### **NAPERVILLE PLANNING AND ZONING COMMISSION**

### **NAPERVILLE, ILLINOIS**

The following rules of procedure are adopted by the Naperville Planning and Zoning Commission to facilitate the performance of its duties and the exercising of its powers.

## **ARTICLE I**

### **OFFICERS**

#### **Section 1. Selection**

(a) Pursuant to Section 2-1-3 of the Naperville Municipal Code, the Chairman of the Planning and Zoning Commission (hereinafter also referenced as “Commission”) is appointed by the Mayor for a one year term and may be reappointed as Chairman at the Mayor’s discretion.

(b) A Vice-Chairman and Secretary of the Commission shall be elected annually by the Plan and Zoning Commission within six (6) weeks of appointment or re-appointment of the Chairman of the Commission by the Mayor.

#### **Section 2. Tenure**

(a) The Chairman shall take office on the first day of May or as may otherwise be designated by the Mayor and Council. The Chairman shall hold office until a successor is appointed and assumes office or until his or her term is expired, whichever occurs first.

(b) The Vice-Chairman and Secretary shall take office immediately following their selection and shall hold office until their successors are selected and assume office, or until their terms are expired, whichever occurs first.

#### **Section 3. Duties**

(a) The Chairman shall preside at all hearings or meetings, shall appoint such committees as may be necessary to carry out the purposes of the Commission, shall appoint committee chairmen, shall provide for oaths to be administered to all witnesses at public hearings, shall prepare or direct the preparation of all reports of recommendation or official action for the City Council, shall perform such other duties as may be ordered by the Commission, and shall perform such other duties necessary to carry out the purpose of the Commission.

(b) The Vice-Chairman shall perform all the duties and exercise all of the powers of the Chairman in the case of absence or disability of the Chairman. In the event of death, removal for cause, resignation, or inability of the Chairman to serve, the Vice-Chairman shall serve as Acting Chairman with all the powers and duties of the Chairman until a successor is appointed. The Vice-Chairman shall perform such other duties as directed by the Chairman.

(c) The Secretary shall call the roll, call public speakers, direct the preparation of the minutes of all meetings and public hearings, execute documents in the name of the Commission, conduct correspondence of the Commission subject to the

instructions of the Commission and Chairman, and perform such other duties as the Commission may determine. In case of absence or temporary disability of the Secretary, the Chairman may appoint an Acting Secretary to carry out the functions of the Secretary's office until the Secretary returns to his or her post, or until a successor is selected.

(d) A recording secretary (hereinafter "Recording Secretary") supplied by the Department of Transportation, Engineering and Development shall oversee recording of the Commission proceedings and shall prepare the minutes of the commission meetings showing the vote of the Commission, recording all official actions of the Commission and summarizing accurately the testimony of those appearing before the Commission.

(e) In the absence of both Chairman and Vice-Chairman, an Acting Chairman designated by the Chairman, or by the Mayor if the Chairman is unavailable, shall preside.

## **ARTICLE II**

### **MEETINGS**

#### **Section 1. General Provisions**

- (a) All meetings and notices of Commission meetings shall comply with the Illinois Open Meeting Act, 5 ILCS 120/1 *et.seq.* Unless closed in compliance with the Illinois Open Meetings Act, all meetings of the Commission shall be open to the public. No final action shall be taken except at a public meeting.
- (b) There are nine (9) members of the Commission. A majority of the members of the Commission (five members) shall constitute a quorum for the transaction of business and the taking of official action. A continuance of a public hearing to the next regularly scheduled Commission meeting due to a lack of quorum shall not be considered transaction of business to the extent authorized by the Naperville Municipal Code.
- (c) All documents and communications to be brought to the Commission's attention are to be filed with the Recording Secretary of the Commission before 5:00 p.m. on the Wednesday preceding a meeting to assure that the Commission will have adequate time to consider the document or communication prior to the meeting. Said documents and communications shall be made part of the case packet and posted on the City's website if possible. At the Chairman's discretion, documents and communications may be filed after this date and time; however, the Chairman may choose to continue the hearing, in whole or in part, based upon the late submission of materials.

- (d) A record of proceedings shall be maintained for all meetings of the Planning and Zoning Commission in accordance with applicable laws and shall at a minimum include the date, location of the meeting, Commission members present, and a record of any action taken by the Commission.
- (e) Members of the public who wish to comment or testify at a public hearing to be conducted by the Commission shall comply with the provisions of Article IV of these By-laws. Any member of the public who wishes to address the Commission for any other purpose may notify the Recording Secretary of his or her intent to speak during public forum; see Article V for additional information.

## Section 2. Regular Business Meeting

- (a) The Regular Business Meeting of the Commission shall be held on the first and third Wednesday of each month at 7:00 p.m.; provided, the Commission may adopt another hour and date of holding its meetings by majority vote.
- (b) All regular meetings of the Commission shall conclude at eleven o'clock (11:00) p.m. unless extended to a time certain by a simple majority of Commission members present.
- (c) Public hearings shall be scheduled by the Chairman and the Director of Transportation, Engineering and Development, and shall occur during the Commission's Regular Business Meeting. The Department of Transportation, Engineering and Development shall publish proper notice for all public hearings in the newspaper of general circulation as required by law. The petitioner shall be responsible to provide all other notices required by law.
- (d) The record of proceedings for all hearings shall include documentation that notices required by the Naperville Municipal Code have been given.

## Section 3. Special Meeting

The Commission may schedule Special Meetings for the purpose of training, consideration of reports, planning discussions, and other matters related to the scope of the Commission's activities. Such meetings may be scheduled on the call of the Chairman or at the written request of three members of the Commission, provided that at least 48 hours' notice of any such meeting is posted by the City and given by mail, email or telephone to each member. The notice of the special meeting shall state the purpose and time of the meeting and comply with the Illinois Open Meetings Act.

#### Section 4. Legal Holidays

Any meeting that falls on a legal holiday (New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day) shall be held on such other date as may be selected by the Director of Transportation, Engineering and Development.

### **ARTICLE III**

#### **RULES OF ORDER**

##### Section 1. Agenda

The Recording Secretary shall prepare the agenda for each meeting of the Planning and Zoning Commission. The Director or his or her designee, in consultation with the Chairman, shall endeavor to manage the agenda for the Planning and Zoning Commission so as to ensure that fair and full consideration is given to each item on the agenda. The Chairman may modify the order of consideration of any item on the agenda with the concurrence of the Commission.

##### Section 2. Regular Business Meetings

(a) Order of Business: The order of business at regular business meetings shall be as follows:

- I. Call to Order
- II. Roll Call
- III. Public Forum
- IV. Public Hearings
- V. Reports and Recommendations
- VI. Old Business
- VII. New Business
- VIII. Adjournment

(b) Change of Agenda Item Order: The Chairman may, at his or her discretion, or at the request of a Commissioner, change the order of an item or items on the agenda with the consent of the Commission.

(c) Item(s) Not on Agenda: The failure to specifically list a matter on the agenda shall not preclude discussion of any matter that is germane to a general topic listed on an agenda or meeting notice, but no final action may be taken with respect thereto.

(d) Conduct of Members:

No member of the Commission shall speak until recognized by the Chairman.

When two (2) or more Commission members seek recognition at the same time, the Chairman shall name the member who speaks first.

Commission members shall always demonstrate respect for the opinions of each other, members of the staff, and members of the audience.

While business of the Commission is being transacted, no Commission member shall leave the meeting without first informing the Chairman.

Section 3. Electronic Attendance

- (a) Electronic Attendance: A member of the Commission wishing to attend a Commission meeting by telephonic or video means shall notify the Recording Secretary as soon as possible, but not less than twenty-four (24) hours before the meeting unless advance notice is impractical. Attendance by telephonic or video means is only permitted in cases of: 1) personal illness or disability; 2) employment purposes or other public business; or 3) a family or other emergency.

No more than two Commission members may attend a meeting by telephonic or video means.

- (b) Physical quorum present: A majority of the Commission must be physically present at a meeting in order to achieve a quorum.

(c) Procedure:

The Chairman will announce the name of any Commissioner attending by telephonic or video means at the beginning of the meeting.

After a roll call establishing that a quorum is physically present, any member physically present may make a motion to permit another member to participate by telephonic or video means. Such motion shall include the reason for the absence. All members physically present are permitted to vote on whether such

participation will be allowed and the motion must be approved by a vote of a majority of those members physically present.

Commission members participating by telephonic or video means shall preface their comments and their votes by first stating their last name.

#### Section 4. Motions

Motions shall be seconded by a voting member of the Commission and restated by the Chairman before a vote is taken. The name of the individual making the motion and the name of the individual seconding the motion shall be recorded. A motion is not before the Commission until it has been seconded.

All motions are debatable except the motion to adjourn and the motion to close debate and call the question.

A motion may be amended or a motion to substitute may be made. A motion to substitute takes the place of the main motion and only one vote is needed.

#### Section 5. Voting

Voting on final recommendations of the Planning and Zoning Commission shall be by roll call. Other voting shall be by voice vote unless a roll call is requested by the Chairman or another member of the Commission. Motions shall be made in the affirmative or the negative; a majority of members present shall vote in the same direction i.e., "Agree with the Motion" or "Disagree with the Motion" in order to constitute a majority recommendation. A tie vote shall result in "no recommendation".

In the event that majority recommendation is not achieved by the Planning and Zoning Commission on any item under consideration, the Chairman shall note that fact and the Recording Secretary shall provide a summary of each Commissioner's comments.

#### Section 6. Rules of Order

The following rules of order shall govern all Commission proceedings:

- (a) Chairman to Preside: The Chairman shall preside at all Regular Business Meetings and Special Meetings of the Planning and Zoning Commission provided that in the absence of the Chairman the Vice Chairman shall preside. In the absence of both the Chairman and the Vice-Chairman, an Acting Chairman designated by the Chairman, or by the Mayor if the Chairman is unavailable, shall preside.
- (b) The Chairman shall preserve order and decorum and shall decide on all questions of order. The rulings of the Chairman shall be appealable to the

Planning and Zoning Commission and shall be decided by a majority vote of those present, including the Chairman, without debate.

(c) Precedence of Motions:

- i. Motion to adjourn to a date certain.
- ii. Motion to adjourn.
- iii. Motion to recess the meeting to a time certain.
- iv. Motion to close debate and call the question. When a motion is made to “close debate and call the question” a vote on the main motion shall be taken without further debate unless either a motion to adjourn is made or unless the motion is objected to. If the motion to close debate and call the question is contested by an objection to the motion, the Chairman will ask for a roll call on the motion to close debate and call the question, which shall pass if approved by a majority of the Commission. A motion to close debate and call the question does not require a second.
- v. Motion to substitute (takes the place of the main motion and only one vote is required).
- vi. Motion to amend.
- vii. Motion to table to a date certain.
- viii. Main motion
- ix. Motion to reconsider at the same meeting. A motion to reconsider a decision made at the same meeting the original vote was taken may be made by any member of the Commission, if that member voted with the prevailing side. If the motion to reconsider is made before another item has been discussed, and if the motion is seconded and passed by a two-thirds (2/3) vote of the Commission, the item may be reconsidered at that meeting.
- x. Motion to change a vote. A member has a right to change his or her vote up to the time that the result is announced; after that, he or she can make the change only by the unanimous consent of the assembly granted without debate.
- xi. Motion to suspend the rules. Planning and Zoning Commission procedural rules may be temporarily suspended for only the matter under consideration at any time by an extraordinary vote. However, rules relating to issues governed by State statute shall not be so suspended.
- xii. Motion to remove an item from the agenda. This motion is appropriate when the Commission chooses to take no action on an item (i.e., when the petitioner has withdrawn the request).



## **ARTICLE IV**

### **PUBLIC FORUM**

#### **Section 1. Public Forum**

The Illinois Open Meetings Act provides that members of the public must be given an opportunity to address public officials at open meetings and provides that public comment maybe subject to the rules established and recorded by the public body. The purpose of the public forum is to allow members of the public an opportunity to address the Planning and Zoning Commission on issues of concern to them which are not part of the agenda.

#### **Section 2. Conduct of Public Forum**

All individuals participating in the public forum shall conduct themselves in a courteous and civil manner. No applause, cheering, or other distractions shall be permitted. The Chairman shall take such actions as needed to maintain an orderly and civil hearing.

#### **Section 3. Public Comment**

All members of the public who want to address the Planning and Zoning Commission at a Planning and Zoning Commission meeting shall sign up before the start of the meeting identifying themselves by name and indicating the general nature of the topic they wish to address.

Members of the public shall be called in the order that they signed up. Speakers shall address the Planning and Zoning Commission from the podium and shall state their name for the record before beginning their remarks.

Speakers shall limit their remarks to no more than three (3) minutes unless additional time is granted by the Chair of the Planning and Zoning Commission or by majority vote of the Planning and Zoning Commission.

A timer shall be used to notify speakers when the allotted time has expired. Speakers will be informed when their allotted time has expired. Upon the expiration of the allotted time, speakers shall stop speaking and leave the podium unless additional time is granted or unless there are questions directed to the speaker from Planning and Zoning Commission members.

Public participation during public forum shall be limited to no more than thirty (30) minutes in total unless extended for a time certain by the Planning and Zoning Commission Chair or by a majority vote of the Planning and Zoning Commission. If there are more speakers signed up to address the Planning and Zoning

Commission than time will allow, public forum shall be bifurcated and continued to the end of the agenda, prior to new business.

## **ARTICLE V**

### **PUBLIC HEARINGS**

#### **Section 1. Notice**

Prior to commencement of the hearing, City staff shall confirm that proper notice of the hearing was given in accordance with state statutes and the Naperville Municipal Code, and that documentation of such notice is included in the case file for the Petition.

#### **Section 2. Introduction by the Chairman**

The Chairman will begin each public hearing by announcing the name of the petitioner (hereinafter “Petitioner”) and the nature of the request.

An oath will be administered to all persons intending to testify during the course of the public hearing.

#### **Section 3. Conduct of Public Hearing**

All individuals participating or attending a public hearing shall conduct themselves in a courteous and civil manner. No applause, cheering, or other distractions shall be permitted. The Chairman shall take such actions as needed to maintain an orderly and civil hearing.

#### **Section 4. City Staff Presentation**

Staff may provide a presentation summarizing the nature of the Petitioner’s request, basic facts of the case and any additional information that is relevant to the Planning and Zoning Commission’s consideration of the case. Staff shall also be present to respond to inquiries by the Planning and Zoning Commission, Petitioner, and public regarding the facts of the case of the provisions of the Municipal Code.

#### **Section 5. Petitioner’s Presentation**

The Petitioner shall be allocated time to present the Petition including testimony of witnesses and other evidence as are relevant to the case. The Chairman shall allow the Petitioner reasonable time to make this presentation without interruption; provided, however, that questions by the Chairman or other members of the

Commission may be permitted if necessary to aid the Commission or public in understanding a particular aspect of the presentation.

Following the conclusion of public testimony but prior to closing the public hearing, the Chairman will allow the Petitioner a reasonable time to make closing remarks.

The provisions of Section 7 (Evidence) shall apply to the Petitioner's presentation.

#### Section 6. Public Comment and Testimony

Members of the public who are interested in the subject matter of the Petition ("Interested Persons") shall be allocated time to speak with regard to the Petition and to present testimony of witnesses and other evidence relevant to the case. At the start of the period for public comment, testimony and general questions the Chairman may advise the public:

- a. Any individual providing public comment and testimony must be acknowledged by the Chairman and shall speak from the podium. The Speaker shall state the city, county and state (if other than Illinois) in which he or she resides, and briefly describe the nature of his or her interest in the Petition;
- b. Speakers shall avoid repetitive comments, testimony and questions;
- c. Individuals speaking on the same issue should coordinate testimony to the extent possible in order to promote an efficient hearing, including selection of a representative to speak on behalf of a group where appropriate.

The provisions of Section 7 (Evidence) shall apply to Public Comment and Testimony.

#### Section 7. Evidence

- (a) The Commission is not bound by strict rules of evidence. The Chairman shall rule on all questions related to the admissibility of evidence presented by the Petitioner or any Interested Person, provided that the Chairman's ruling may be overruled by a majority of the Commission members present.
- (b) Submission of written documentation of any kind which is relevant to the Petition shall be governed by the provisions of Article II, Section 1(c) above.
- (c) An individual presenting information to the Commission as an expert witness shall provide the Commission with his or her name, the city, county and state (if other than Illinois) where he or she resides, the address of the business which

he or she represents, and a description of the area of knowledge or expertise of such witness. It is preferred that such witness register with the Recording Secretary in advance of the meeting and provide the Recording Secretary with a business card and/or curriculum vitae. Such witness shall be allowed to testify subject to the conditions set forth herein or as may be reasonably imposed by the Chairman.

- (d) Staff, Petitioner, Interested Persons, and their representatives, shall address their comments, testimony and general questions to the Planning and Zoning Commission. The Chairman will direct questions from the public to the Petitioner or staff in an orderly and consolidated manner for response. If cross examination is requested by the Petitioner or by an Interested Person, the Chairman shall allow such cross examination subject to reasonable limitations including but not limited to: the complexity of the issue, whether a witness possesses special expertise, whether the testimony concerns a disputed issue or reflects a matter of taste or personal opinion, and the degree to which the witness' testimony relates to the factors to be considered in approving or denying the proposal. The Chairman may bar repetitious, irrelevant, or immaterial testimony. The examination of a witness shall not be used by the questioner to offer testimony or evidence of the questioner.

#### Section 8: Questions by the Planning and Zoning Commission

The members of the Planning and Zoning Commission may ask questions of the Petitioner or Interested Persons as needed to clarify the facts of the Petition or the nature of material presented.

#### Section 9: Action by Planning and Zoning Commission

Following Petitioner's concluding remarks and any questions from the Planning and Zoning Commission, the Commission may: (a) request the Petitioner, an Interested Person, or staff to provide additional information, and continue the hearing to a date certain; (b) continue the hearing to a date certain for any reason deemed appropriate by the Commission; or (c) move to close the public hearing and vote on a recommendation relative to the Petition.

### **ARTICLE VI**

#### **MISCELLANEOUS**

##### Section 1. Suspension of the Rules

The Commission may suspend any of these rules by a vote of two-thirds vote of total membership of the Commission.

## Section 2. Amendments

These By-laws may be amended at any regular or special meeting by a two-thirds vote of total membership of the Commission if amendment of the By-laws is included on the Commission Agenda. Any proposed amendment must be presented in writing before the vote on the amendment is taken.

The foregoing Naperville Planning and Zoning Commission By-laws are hereby adopted by the Planning and Zoning Commission of the City of Naperville on \_\_\_\_\_. A copy of same shall be filed with the Naperville City Clerk.

\_\_\_\_\_  
Chairman

Date: \_\_\_\_\_

\_\_\_\_\_  
Secretary

Date: \_\_\_\_\_