

**BYLAWS OF THE LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION
LAWRENCE, KS**

ADOPTED JUNE, 1969

AMENDED 10.23.02, 02.11.04, 03.17.04, 08.30.06, 09.24.07,
02.27.08, 02.23.09

LATEST AMENDMENT: 02.21.18

ARTICLE I
NAME AND MEMBERSHIP

SECTION 1. NAME. The name of this organization, established by Ordinance No. 3951 of the City of Lawrence, Kansas, and Resolution No. 69-8 of Douglas County, Kansas, shall be the Lawrence-Douglas County Metropolitan Planning Commission. The term "Commission" in the following sections shall mean the Lawrence-Douglas County Metropolitan Planning Commission.

SECTION 2. MEMBERSHIP. Membership of the Commission shall be as established by the above-cited joint ordinance/resolution, which specifies the number, method of appointment, and term of office.

ARTICLE II
PURPOSE

SECTION 1. BYLAWS. The purpose of these bylaws is to establish rules for the internal organization of the Commission and for procedures of operation.

SECTION 2. COMMISSION. The function, powers, and duties of the Commission are as authorized by state law and by the joint ordinance/resolution establishing the Commission. With some exceptions, actions of the Commission are recommendatory only and subject to approval by the appropriate governing body, the City Commission or the Board of County Commissioners. The Commission, however, adopts its own rules and policies for procedure, consistent with its powers.

ARTICLE III
ORGANIZATION

SECTION 1. OFFICERS. The officers of the Commission shall be a chairperson, a vice-chairperson, and a secretary. The chairperson and vice-chairperson shall be elected by the Commission at its regular meeting in June of each year. Their term of office shall be one (1) year. No person may serve more than two (2) consecutive terms. The Director of Planning & Development Services or his/her selected representative shall serve as secretary to the Commission.

SECTION 2. CHAIRPERSON. The chairperson shall preside at all meetings of the Commission unless the chairperson designates someone to preside in his/her stead. The chairperson shall appoint all committees. The chairperson shall perform all the duties assigned to his/her office by law and by the city and county governing bodies, and shall have such usual powers of supervision and management as pertains to the office of chairperson.

SECTION 3. VICE-CHAIRPERSON. The vice-chairperson shall act as chairperson in the absence of the chairperson. In the event the office of chairperson becomes vacant, the vice-chairperson shall succeed to that office for the unexpired term, and the Commission shall select a new vice-chairperson for the unexpired term at the next regular meeting.

SECTION 4. SECRETARY. The secretary shall prepare the agenda and the order of business for each regular meeting in consultation with the chairperson. The secretary shall keep the Commission informed on all communications. The secretary shall record the minutes of all meetings and shall provide copies to all members of the Commission, the governing bodies and other public agencies involved. The secretary shall act on behalf of the Commission in the following matters, provided that matters shall first be presented to the Commission if there appears to be a serious conflict of interest, public controversy, or the like:

- a. Represent the Commission on planning matters at all meetings of the governing bodies.
- b. Prepare or present plans, policies, or procedures established by the Commission.
- c. Accept and prepare all routine communications on planning matters.
- d. Give or serve all notices required by law, these bylaws or adopted procedures.

Further, the secretary shall be responsible to advise the chairperson directly, and the Commission as a whole, on matters regarding annual requirements for document reviews, *i.e.* the comprehensive plan, or its successor, and deadlines and content requirements for submission of various reports and documents to local governing bodies, the State of Kansas, and Federal offices.

SECTION 5. COMMITTEES. The Commission shall meet as a "Committee of the Whole" to consider informally issues as determined by the Commission. The Vice Chair shall preside at these meetings and shall work with the Chair and Secretary to set agendas and meeting times. Other ad-hoc committees may be appointed by the Commission Chair, as necessary to study, facilitate, and/or make recommendation of specific issues. Such appointments will include purpose, members, and presiding officer. Planning Commission members shall be appointed by the chairperson to serve on the ad-hoc committees. No ad-hoc committee shall have more than four (4) planning commissioners appointed to it.

SECTION 6. ATTENDANCE. A member having three or more unexcused absences or five or more absences for any reason from a regular or special meeting, as those meetings are provided for in Article IV of these bylaws, during one (1) calendar year shall be deemed by the Commission to have involuntarily resigned his or her position. Failing to notify the Chair and the Secretary of an absence at least 24 hours prior to a scheduled meeting shall count as an unexcused absence. Attendance will be reviewed regularly to ensure compliance.

SECTION 7. PLANNING OFFICE. The Planning office shall provide professional and technical assistance to the Commission. Staff planners shall present recommendations of the Commission to the governing bodies. Recommendations of the professional staff, minutes of the Commission meeting, and other relevant material shall be presented to the governing bodies with the recommendations of the Commission. The Planning office shall also provide professional and technical assistance to both governing bodies and to other boards, commissions and agencies as is deemed appropriate. The Planning office shall be the official custodial agency for minutes, records, files, and materials relating to Commission business.

ARTICLE IV **MEETINGS**

SECTION 1. REGULAR MEETINGS. Regular monthly meetings shall be held twice a month, typically on the fourth Wednesday of the month and on the Monday preceding the fourth Wednesday of the month, unless otherwise designated on the official yearly meeting calendar adopted

annually in November of the previous year. The public hearing portion of the regular monthly meetings shall be commenced at the first meeting date and recessed, at the conclusion of that meeting, until 6:30 p.m. on the second monthly meeting date.

The first regular monthly meeting shall be held on either a Monday or a Wednesday, and shall commence at 6:30 p.m. Regular monthly meetings shall be held in the City Commission meeting room on the first floor of City Hall, 6 E 6th Street, in Lawrence, unless another location is published in the meeting's legal notice.

SECTION 2. CORRESPONDENCE. Correspondence received from the applicant, staff or public after the staff report packet has been originally posted will be posted to the website by 2:00 p.m. on the Monday of the week of the regular meeting. Questions submitted from the public in regard to items on the first regularly scheduled meeting shall be provided to staff by 10:00 a.m. on the Monday of the week of the regular meeting to allow time for responses to be prepared and posted by the 2:00 p.m. deadline above.

SECTION 3. SPECIAL MEETINGS. Special meetings may be called by the chairperson and shall be called by the chairperson if requested by at least six (6) members of the Commission. Notice of special meetings shall be given by the Planning Director not less than five (5) days prior to the meeting. Published notice shall state the purpose, time, and location of the meeting.

SECTION 4. AGENDA. If an agenda is prepared, it shall be made available to the public ten days prior to the first regular monthly meeting and shall be posted on the department's website for ease of access. Any updates to the Agenda will be posted to the website daily by 5:00 p.m. (if needed). Items on the Agenda may be taken in any order, by a majority vote of the Commissioners present and voting at the meeting.

SECTION 5. QUORUM. A quorum shall consist of six (6) members as provided by the joint ordinance/resolution establishing the Commission. In the absence of a quorum, the members present shall reschedule the meeting and absent members shall be notified by the secretary.

ARTICLE V
Conduct of Meetings

SECTION 1. PARLIAMENTARY AUTHORITY. Meetings shall be conducted according to these bylaws.

SECTION 2. ORDER OF BUSINESS. The order of business shall be as follows:

The order of business for consideration at any regularly scheduled monthly meeting shall be as follows:

- a) call to order
- b) consideration of minutes
- c) staff and committee reports
- d) communications:
 1. public (written)
 2. planning commissioners or other boards and/or commissions (written or oral)
 3. staff (written or oral)
 4. declaration of planning commissioner ex parte communications and intent to abstain on specific agenda items
 5. requests for deferral

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- e) election of chairman and vice-chairman [annually at the June meeting]
 - f) ex parte communications disclosed for each separate quasi-judicial item (oral).
 - g) old business [items returned for reconsideration by a governing body]
 - h) plats which require public hearing on variance requests
 - i) public hearing items
 - j) miscellaneous items
 - k) general public comment
 - l) adjourn

* public and non-public hearing items that are related to a development project shall be placed on the same meeting's agenda in consecutive order under the regular agenda.

SECTION 2A. AGENDA MANAGEMENT BY STAFF. Items on the regular agenda shall be ordered according to Staff's estimation of various factors including: location within community [staff will attempt to schedule items within same area/neighborhood on the same night to accommodate public involvement]; staffing assignments [to minimize individual staff attendance at both meetings]; applicant's ability to attend; and balancing number of items between the two meetings. This shall apply to all Items, regardless of previous deferrals, except according to specific direction from the Planning Commission.

SECTION 2B. DEFERRALS REQUESTED BY THE APPLICANT. Deferral requests that are made while a project is under review [prior to staff report posting on the website] will be noted on a revised agenda as 'Deferred' and staff will attempt to notify members of the public who have expressed interest in the project during the review period, as well as the media. Deferral requests made by the applicant after staff report posting and through the communications deadline shall be considered by the Commission under the Communications portion of the agenda. Such requests will be permitted only in cases in severe hardship or for the purpose of making a significant change to the original application and only with a majority vote of the Commission at the meeting. Such requests must be made in writing and must be submitted to Staff no later than 10:00a.m. on the day of the meeting.

The Commission has the authority to deny the deferral request on the grounds that such request was not made in a timely fashion, that notice of deferral has not been given to the adjacent property owners, or that the applicant is not seeking deferral in order to make significant changes to the original application.

SECTION 2C. DEFERRALS/TABLING INITIATED BY THE COMMISSION. The Commission may table or defer any item, including after the public hearing has been closed, when it is determined by the Commission that such action would be advantageous to the Commission for responding to issues raised and for gathering adequate information to make a well-informed recommendation.

SECTION 3. STAFF REPORTS. Staff reports on all agenda items shall be prepared and posted to the website five (5) calendar days prior to the day of the first meeting. Members of the public can sign up to receive automatic e-mail notification regarding staff report postings and updates.

SECTION 4A. APPEARANCE BEFORE THE COMMISSION. Petitioners or their representatives, members of the community at large, or individuals or their representatives who feel that they will be affected by any action may appear before the Commission to present views and statements either for or against agenda items. The public may address their comments or concerns to the Commission in person or in writing. Except as otherwise determined by the chair, the following

time limits will apply: Applicant - 10 minutes per item up to a maximum of 30 minutes; Members of public representing themselves or a group - 3 minutes; Petitioner's response to public testimony – 5 minutes. The Chairperson may at his/her discretion change the length of presentation or discussion to ensure the orderly conduct of Commission business provided that the decision of the Chairperson may be overridden by a majority vote of those commissioners present.

After the Chair closes the public hearing on a public hearing item, additional public testimony will not be taken with the exception that a Commissioner, after recognition by the Chairperson, may ask a speaker for clarification on a point raised. Such action shall be noted in the minutes and the returning speaker shall be instructed to reply only to the question raised.

SECTION 4B. INTRODUCTION OF UNREVIEWED INFORMATION. An applicant's written response to the recommendations in the Staff Report will be accepted by planning staff until 10:00 a.m. on the Monday of the week of the regular meeting on which the agenda item will appear. The applicant may present new information at a regular meeting under three circumstances:

- (a) The information has been reviewed by Staff and Staff is prepared to respond;
- (b) The information is in direct response to recommendations in the Staff Report; or
- (c) The information is requested by a Commissioner in the course of the regular meeting.

In all other cases in which the applicant wishes to introduce new information, the applicant should make a timely request for deferral of the Item in accordance with Article V, Section 2C. If the Item stays on the agenda, Staff should notify the Commission if any attempt is made to introduce new information not complying with (a), (b) or (c) as described above. In such a case, the Chair shall bar introduction of the new information and the Commission shall consider the Item without consideration of the new information.

SECTION 4C. WRITTEN COMMENTS FROM THE PUBLIC. Public comments on agenda items for the regularly scheduled monthly meetings will be accepted by planning staff until 10:00 a.m. on the Monday of the week of the regular meeting. This deadline provides time for correspondence to be posted to the website by the 2:00p.m. deadline established in Article IV, Section 2.

SECTION 5. COMMISSION ACTION. The Commission shall take action on each item presented at the conclusion of discussion of that item.

SECTION 6. MOTIONS. Motions before the Commission shall be restated by the Chairperson before a vote is taken.

SECTION 7. VOTING. Voting on non-public hearing items and for public hearing items shall be by a show of hands. Each member's vote shall be recorded by the Secretary or his/her designee on the official voting sheet. After a vote is taken the Chairperson or the Secretary shall announce the votes cast in favor of the motion, in opposition to the motion and whether the motion passed or failed.

For non-unanimous votes, the minutes shall note the members voting in favor of a motion, in opposition to a motion, and those abstaining from voting on the motion as well as the vote tally. For example, an 8-1-1 vote would be recorded as Commissioners a, b, c, d, e, f, g, & h

voted in the affirmative, Commissioner x voted in opposition to the motion and Commissioner y abstained from voting.

SECTION 8. ABSTENTION. It is the duty of each member to vote on each issue, but a member may abstain if he or she declares a conflict of interest. No member shall participate in, discuss, or vote on a matter in which he or she has a conflict of interest, a substantial interest as defined by K.S.A. 75-4301a *et seq.*, or is otherwise prohibited by any applicable City or County ordinance, resolution, rule, or policy. Members having declared a conflict of interest with respect to an item before the Commission shall physically leave the meeting room during the hearing of that item.

SECTION 9. RECORD OF PROCEEDINGS. The secretary shall record the minutes of each meeting as a matter of public record and shall present such minutes to the Commission for approval.

A written voting log shall be kept for each motion. Included in this log shall be: the commissioner who made the motion; the commissioner seconding the motion; any commissioners abstaining from voting on the motion; the commissioners voting in favor of the motion; and the commissioners voting in opposition to the motion.

Draft minutes will be stamped as DRAFT and will be forwarded to the Commission when the staff report is posted to the website. Revisions may be made to the minutes at any time prior to approval of said minutes at the next regular meeting. Due to timing of the meetings, draft minutes are distributed to the Governing Bodies prior to approval by the Planning Commission.

ARTICLE VI **MATTERS TO BE CONSIDERED**

SECTION 1. ITEMS TO BE CONSIDERED. The Commission shall consider matters relating to the Comprehensive Plan, including zoning, subdivision, and other regulatory measures relating to the Comprehensive Plan and the physical development of the city and county, as itemized in Section 2, below.

The Commission shall not consider any proposal, request, application, or plat which is contrary to or in conflict with provisions of the Kansas Statutes Annotated, as amended, or contrary to or in conflict with city ordinances or county resolutions.

SECTION 2. ITEMIZED LIST. A specific list of matters to be considered by the Commission is as follows:

- 1) Rezoning proposals, Conditional Use Permits, Special Use Permits, and Subdivision plats and Certificates of Survey and associated requests for variances;
- 2) Annexation proposals;
- 3) Comprehensive Plan amendments or revisions;
- 4) Text Amendments to adopted ordinances and resolutions;
- 5) Capital Improvement Plans, and;
- 6) Such other matters as the Director may bring before the Commission or that the governing bodies may assign to the Commission or the Commission shall deem relevant or appropriate.

ARTICLE VII
CODE OF CONDUCT

Section 1. DEFINITIONS:

A. QUASI-JUDICIAL CONDUCT. A Planning Commission is expected to act like a judge, or function in a "quasi-judicial" capacity, when reviewing matters that affect a specific party's land use rights. Quasi-judicial conduct must be above reproach and within the law. Quasi-judicial conduct demands that Commissioners provide interested parties with "procedural due process." Procedural due process includes the following:

- Proper notice of the hearing;
- A proper hearing where interested parties are permitted to present their case;
- A fair and impartial decisionmaker that reviews the evidence and makes its decision based on substantial competent evidence in the record

B. EX PARTE COMMUNICATIONS. An *ex parte* communication is a communication -- written, electronic, oral, or otherwise -- that is relevant to the merits of a quasi-judicial proceeding, that is not in the record, and that occurs between a Commissioner and a person who is not on the Commission. Communications between Commissioners, communications between Commissioners and Planning Staff, communications on issues that are not quasi-judicial in nature, and communications on purely procedural matters are not *ex parte* communications.

C. ACTIVE REQUEST. An item is an active request until such time as the Planning Commission has completed deliberations on the item, forwarded a recommendation to the Governing Body(ies) and a 'final action of approval' has been taken. A 'final action of approval' shall be construed to mean, for the purposes of this document, the adoption of an ordinance or resolution by the Governing Body(ies) to enact a zoning or text change, the filing of a plat or development plan at the Register of Deeds, the denial of a request, or the issuance of a building permit based on an approval of an "active request." An item is an active request at least from the time that any filing or request is received by the Planning Office, or any action has been initiated by the Planning Commission or by a Governing Body.

Section 2. DISCLOSURE OF EX PARTE COMMUNICATIONS. Any *ex parte* communication shall be disclosed at any meeting as part of the Communications section, at the beginning of each quasi-judicial item on the agenda, or earlier. The Commissioner receiving the *ex parte* communication shall disclose the full nature of the communication including the identity of the individual(s) participating in the communications and any information obtained through the communications so that all Commissioners have the same information upon which to make their decision and so that the applicant, City Staff, interested parties, and the general public are provided a fair opportunity to respond meaningfully to the information.

Section 3. REQUEST FOR ADDITIONAL INFORMATION BY COMMISSIONERS. The *ex parte* communication restriction shall not preclude any Commissioner from requesting additional information as long as the requests for information are in writing and a copy of the request and the response are forwarded to staff and made part of the public record on that quasi-judicial matter.

Section 4. CONFLICT OF INTEREST. A Commissioner shall declare a conflict of interest and shall not participate in, discuss, or vote on any matter in which he or she has a conflict of interest, a substantial interest as defined by K.S.A. 75-4301a *et seq.* or is otherwise prevented by any applicable City or County ordinance, resolution, rule, or policy. Any Commissioner declaring a conflict of interest with respect to an item before the Commission shall physically leave the meeting room during the discussion and the vote on the item.

Section 5. Commissioners continue to be subject to the *ex parte* disclosure requirements until a 'final action of approval' has been taken on an "active request" as defined in Article VII, Section 1C.

ARTICLE VIII
AMENDMENTS

Section 1. These bylaws may be amended by a two-thirds vote of the Commission at any regular meeting, provided the members have been notified one (1) month in advance and the proposed amendment has been placed on the agenda. Any amendments to these bylaws shall be approved by the City Commission and the Board of County Commissioners before becoming effective.