

RULES OF PROCEDURE  
of the  
FREDERICK COUNTY PLANNING COMMISSION

December 11, 1973, as adopted with Amendments to sections 1-7, 9, 11, and 13 on September 13, 2023

EFFECTIVE September 13, 2023

Sections with Substantive Amendments noted by date (00-00-00)

FOREWORD

The Rules of Procedure are issued to assist the Frederick County Planning Commission, its staff and other County agencies in the orderly and efficient conduct of all matters with which the Commission is concerned. For situations not covered by these Rules of Procedure, Robert's Rules of Order shall generally apply.

OBJECTIVE

The Frederick County Planning Commission seeks to conduct all business which may properly come before it by law or custom to secure the harmonious development of the entire County for the benefit of its present and future inhabitants. The Commission will conduct its business in accordance with the applicable provisions of the Land Use Article of the Annotated Code of Maryland as well as these Rules of Procedure. (01-20-99)

SECTION 1 – DEFINITIONS

1.1 The word "Commission" shall refer to the Frederick County Planning Commission.

1.2 "Director" shall mean the Director of the Division of Planning and Permitting or their designee.

1.3 "Governing Body" shall mean the County Council and County Executive of Frederick County, Maryland. (09-13-23)

1.4 "Presiding Officer" shall mean the Commission member presiding over a Commission meeting as described in section 2.2. (09-13-23)

1.5 "Recognized Organization" shall mean any group that has provided to the Commission all of the following: (a) a copy of its bylaws, which must be adopted at least 90 days prior to the Commission meeting, and (b) a formally executed resolution from their board of directors (or

similar governing body) authorizing the person(s) speaking on behalf of the organization for that matter. (10-19-05)

1.6 "Regular Meeting" shall mean a meeting scheduled on the second, third, or fourth Wednesday of any month at which a majority of the membership of the Commission (a quorum) is present. (09-13-23)

1.7 "Special Meeting" shall mean any meeting not scheduled in conformance with sections 5.1 or 5.2 at which a majority of the membership of the Commission (a quorum) is present. (09-13-23)

1.8 "Rules" shall mean these Rules of Procedure.

## SECTION 2 – OFFICERS AND COMMITTEES

2.1 The Commission shall organize annually in the month of October and confirm the election of a Chair, Vice-Chair and Secretary. (10-19-05) (09-13-23) Except to the extent a Commission member refuses to accept the position, the order of succession shall be as follows: (1) the Chair shall be the member with highest current continuous Commission service; (2) the Vice-Chair shall be the member with second highest current continuous Commission service; and the Secretary shall be the member with third highest current continuous Commission service. When determining the order of succession, Commission members who have not served as an officer during their current term shall take precedence over those who have previously served as an officer during their current term of continuous service. (09-13-17) (09-13-23)

2.2 The Chair or in the Chair's absence the Vice-Chair or Secretary, shall preside at all meetings or hearings of the Commission. In the absence of an officer, the member with most current continuous Commission service shall preside. 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. (01-20-99) (10-19-05) (09-13-23)

2.3 The Secretary shall sign plats and other documents required to be signed by the Planning Commission. In the absence of the Secretary, either the Chair or the Vice-Chair shall sign these documents. (09-13-17)

2.4 An Executive Committee shall be established to assist the Chair on issues related to Commission operations. It shall be a standing committee comprising the Chair, Vice-Chair, and Secretary of the Commission. (09-13-23)

2.5 Special Committees may be appointed by the Commission to study specific issues identified by the Commission and to make recommendations for further action by the Commission as a whole. (09-13-23)

a) Each Special Committee shall not comprise a quorum of the full Commission and cannot act for the Commission as a whole. (09-13-23)

b) The Commission shall formulate a problem statement for any Special Committee, related to the issue they are tasked to study, for approval by the Commission. (09-13-23)

c) Each Special Committee shall determine, to the best of their ability, how much time they will need (typically within a range of one to four months) to gather information, consider the problem statement, and produce a draft report.

d) The Special Committee shall periodically report on their progress during a Regular Meeting of the Commission. The Special Committee will provide a draft report to the Director for review and comment, and produce a final report recommending action by the full Commission. (09-13-23)

e) Each Special Committee's final report should include one or more of the following recommendations for Commission consideration:

- a proposed amendment to Commission procedures;
- a proposed recommendation to the Director or to the County Executive;
- a proposed legislative recommendation to the County Council and County Executive; or
- a determination that, after full consideration, no further action is needed. (09-13-23)

f) When a Special Committee's final report is accepted by the Commission, its work is done and the Special Committee shall be dissolved.

g) Each Special Committee's activities and recommendations shall be summarized in the Annual Planning Report. (09-13-23)

### SECTION 3 – VOTING

3.1 A quorum shall consist of a majority of the existing membership of the Commission.

3.2 Questions put to a vote are decided by a majority of the members present and voting, assuming a quorum is present. No decision may be made in the absence of a quorum.

3.3 A tie vote by the Commission shall be interpreted as a failure to approve the motion upon which the vote was taken. Additional motions may then be proposed. If a tie vote remains on an advisory matter, the Commission's action shall be deemed as "No Recommendation". If a motion cannot be approved on non-advisory matters (i.e., subdivision, site plan, etc.) then the matter shall be deemed "not approved" but may be brought back before the Commission on another date at the request of the Applicant. (01-20-99)

3.4 No member shall vote on a matter in which he or she has personal involvement or as otherwise specified in the County's Ethics Ordinance. Members recusing themselves from a Commission matter shall leave the room for the duration of the matter being considered and any vote thereon. Members are encouraged to consult the Commission's counsel as to the propriety of their voting on any matter which may involve a conflict of interest. (01-20-99) (10-19-05)

3.5 In order to be eligible to vote, a member must attend all relevant meetings or review the audio, video or transcript of any meetings from which the member was absent. (01-20-99)

3.6 Members' votes shall be recorded on each motion. A member present but not voting in an audible or visible manner shall have their vote counted as an abstention. The Presiding Officer shall announce the results of each vote. (01-20-99) (09-15-04) (09-13-23)

3.7 As required by law, decisions of the Commission will be made based on the evidence and information presented at the Commission's public meeting or hearing, and evidence submitted in accordance with Section 6 of the Rules. The Commission may take administrative notice of facts in common knowledge and matters falling within any member's experience and expertise, as disclosed by that member, in reaching a decision on a matter. (08-13-14) (09-13-17)

#### SECTION 4 – CONDUCT OF COMMISSION MEMBERS

4.1 Speaking for the Commission – A member will not speak or 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.

4.2 Ethics Ordinance – Commission members are subject to and must comply with the County Ethics Ordinance. (01-20-99)

4.3 Attendance – It shall be the duty of each member to participate in all meetings. Should any member be absent from one-half or more of all meetings held during the year, the Commission shall recommend to the County Executive that the member's resignation be requested, unless determined by vote of a majority of Commission members that there is a sufficient excuse for non-attendance. (09-13-23)

4.4 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.

4.5 Being recognized – Commission members shall only speak after being recognized by the Presiding Officer. (09-15-04) (09-13-23)

4.6 Ex Parte Communications - It is important to maintain the impartiality and integrity of the Commission; it is also important that Commission decisions be based on information presented in public documents and during open and public meetings. Therefore, Commission members

shall refrain from ex parte communications (meaning communications that occur outside a formal Planning Commission meeting) regarding matters that are likely to come before the Commission for decision. If a Commission member receives an unsolicited communication(s) about a pending application or decision outside of a Commission meeting, the member must disclose and describe the communications at the earliest opportunity during the Commission's consideration of the application or decision. Subject to the applicable provisions of the Maryland Open Meetings Act, Section 11.2 of these Rules, and the County's Ethics Ordinance, nothing in this section applies to or otherwise restricts any member of the Commission from communicating with any other Commission member or staff member, including the Commission's legal counsel, for the purpose of obtaining information or advice. (09-13-17)

## SECTION 5 – MEETINGS

5.1 Regular Meetings shall be held on the second Wednesdays of each month. If additional time is needed, the third and fourth Wednesdays may also be set aside as meeting dates. (02-14-79) (01-20-99) (09-15-04) (09-13-23)

5.2 The total number of Regular Meetings per month shall not exceed three. Day and evening sessions shall be scheduled as separate meetings and shall not be scheduled for the same day except as provided in Section 5.3 of these Rules. Staff shall give Commission members at least one week's notice, if possible, prior to any meeting.

5.3 Special Meetings may be called by the Chair or in the Chair's absence the Vice-Chair. Meetings requiring advertisement or other notice may be called only after the appropriate notice or advertisement is provided. (01-20-99) (09-13-23)

5.4 The order of business shall be in accordance with the agenda. The agenda may be revised by a majority vote of the Commission.

5.5 Commission meetings shall be public meetings and subject to the Maryland Open Meetings Act. Except as otherwise permitted by the Maryland Open Meetings Act, voting shall be held during a public meeting and the Commission shall keep an open record of its resolutions, proceedings and actions, which shall be available for public inspection during business hours. Nothing contained herein shall be construed to prevent the Commission from holding closed session meetings for discussion of items as permitted under the Maryland Open Meetings Act. (04-12-77) (01-20-99)

5.6 Anyone may appear on their own behalf or be represented by an agent or attorney at a Commission meeting. In the absence of any appearance on behalf of the Applicant, the Commission will proceed to dispose of the matter on record before it or may table the item. A tabled item will only be rescheduled upon submission of a proper request by the Applicant.

5.7 Recording of Proceedings – It shall be the duty of the Secretary, assisted by the Commission's staff, to keep a true and accurate record of all proceedings at all meetings and



public hearings. A video or audio recording may be accepted as the official record. Minutes shall be prepared, distributed to the individual members, and if approved by the Commission, placed in a record book or file. The Secretary or Chair shall sign the minutes, resolutions, and other official documents, as adopted or approved.

## SECTION 6 – PUBLIC HEARINGS

6.1 All agenda items that require an advertised public hearing shall be preceded by notices as prescribed by law and these Rules. (04-12-77) (09-15-04)

6.2 The ordinary order of hearing and time limits for testimony (EXCEPT AS PROVIDED IN SECTION 6.3) shall be as follows:

- Staff report and recommendations
- The Applicant (including the Applicant's agent, or attorney) (Total of 15 minutes)
- Public comment (3 minutes per individual or 10 minutes per Recognized Organization)
- Applicant's rebuttal (10 minutes) (09-13-23)

a) Commissioner questions to those giving public testimony shall be limited to clarification of issues or facts raised in the testimony.

b) Additional time for the Applicant's or public testimony may be requested in writing at least 45 7 days in advance of the meeting. Decisions on whether to grant the additional time requested shall be made by the Commission by majority vote. (01-20-99) (10-19-05) (09-13-23)

c) Written comments must be filed and received by the Frederick County Division of Planning and Permitting by hand delivery, overnight service, mail, fax, or electronic mail at least 48 hours in advance of the Commission meeting in order to be considered by the Commission in making its decision. (08-13-14)( 09-13-17)

6.3 Rezoning Hearings – The ordinary order of hearing and time limits for testimony during rezoning hearings shall be as follows:

- Staff report and recommendations
- Any combination of Applicant, the Applicant's agent, or attorney (30 minutes).
- Public comment (3 minutes per individual or 10 minutes per Recognized Organization)
- Applicant's rebuttal (20 minutes) (09-15-04) (09-13-23)

6.4 Following the end of public testimony, the Planning Commission may discuss issues raised during the testimony.

6.5 The Commission may postpone or continue any case due to lack of a quorum or for further study and information until a time as determined by the Commission, but in no event shall the

postponement or continuance exceed six (6) months, except where otherwise provided by law and/or as required by these Rules. (01- 20-99) (10-19-05)

6.6 The Commission may require any additional relevant Planning materials in the form of maps, charts, reports, and studies, in order to reach a decision. (01-20-99)

6.7 Cross-Examination - The Presiding Officer will allow reasonable cross-examination of witnesses at a time and in a manner allowed by law and considered reasonable by the Presiding Officer under the circumstances. (01-20-99) (09-13-23)

a) Cross-examination is designed to permit a full and true disclosure of the facts of the case, with due regard for the circumstances of each particular case, the nature of the proceedings, and the character of the rights which may be affected by it. The Commission shall allow cross-examination, in a manner best calculated to afford all parties an opportunity to present their positions and to serve the ends of justice and fairness.

b) The right to cross-examine witnesses shall be extended to those persons who are parties to the proceedings before the Commission or who have a cognizable interest in the outcome of the proceedings as determined by the Presiding Officer. The Presiding Officer shall also permit a representative or representatives of these persons with the opportunity to conduct cross-examination. (09-13-23)

c) A person or party wishing to cross examine a witness or panel of witnesses shall make the request known prior to or immediately after the time that the witness or panel of witnesses has concluded their testimony; the failure to make such a timely request shall be deemed a waiver of the right to cross examine.

d) Cross-examination must be: (i) brief; (ii) in the form of a question; and (iii) relevant to the testimony given by the witness. The questions must not: (i) be argumentative; (ii) be preceded or followed by a speech or testimony; or (iii) discuss personality or motives.

e) The rules of evidence applicable to administrative hearings as set forth by the Supreme Court of Maryland shall apply generally. The scope of cross-examination may be limited by the Presiding Officer, so as to limit cumulative, repetitive or irrelevant questions. (08-13-14) (09-13-23)

#### 6.8 Consent Agenda.

a) The Planning Commission may from time to time receive items on a Consent Agenda as determined by Staff. Consent Agenda items will not be individually discussed, but will be voted upon in the form of one motion.

b) Commission members wishing to individually discuss one or more of the Consent Agenda items shall make this request to the Chair. The item will be removed from the Consent Agenda,

and be placed on the regular agenda, subject to discussion by the Commission. If additional information is needed to make a decision on the item, then a majority of the Commission can approve postponing the item as necessary to receive the additional information. (09-13-17)

6.9 The Commission may vary any of these Hearing procedures by a majority vote of members present and voting (if a quorum is present), except where otherwise provided by law. (01-20-99) (09-15-04)(09-13-17)

## SECTION 7 – BRINGING MATTERS BEFORE THE COMMISSION

7.1 The agenda shall be prepared by the staff who will consult with the Chair on such matters of the agenda as may be appropriate. Members of the Commission who wish to add to the agenda shall first notify the Chair of their request at least 14 days prior to the meeting. (04-12-77) (01-20-99) (10-19-05) (09-13-23)

7.2 All applications for Zoning Map and Floating Zone Reclassifications, Zoning Text Amendments, Planned Unit Development (PUD), Mixed Use Development (MXD) or Comprehensive Plan Amendments must be filed at least sixty (60) days in advance of the public hearing. A copy of the Planning Staff Report on these matters shall be available for public inspection at least ten (10) calendar days prior to the scheduled Public Hearing (08-12-75) (04-12-77) (01-20-99) (09-13-23)

7.3 Petitions or requests for action on public ways, grounds, spaces, buildings, structures, utilities or any other item which do not require public notice (advertising), must be filed at least 45 days in advance of the scheduled Commission meeting. (04-12-77) (10-19-05)

7.4 In rezoning cases, the Commission shall submit its report and recommendation to the County Council in accordance with the procedures established in the Zoning Ordinance. (04-12-77)

7.5 Miscellaneous requests and petitions 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 Subdivision Regulations; the Zoning Ordinance; and other applicable rules, regulations and ordinances of the County. All such matters shall be handled with as much dispatch as possible. Miscellaneous requests shall be submitted to the appropriate division 45 days in advance of the desired meeting date for consideration unless otherwise waived for an agency or the Governing body by the Director. (04-12-77) (10-19-05) (09-13-23)

7.6 Withdrawal. Any item placed on the Commission's monthly agenda and then withdrawn by the Applicant shall not be rescheduled until at least 30 days have elapsed, unless otherwise provided by majority vote of the Commission. (01-20-99)

## SECTION 8 – FINAL DISPOSITION OF COMMISSION MATTERS



8.1 The disposition of all formal petitions and requests before the Commission requiring further action by the County Council shall be in the form of a letter or memo to the County Council.

8.2 In all matters, the Applicant shall be notified by letter of the action taken by the Commission. The Commission, Chair, or Executive Committee may request a draft copy of the letter for review and approval before transmittal to the Applicant.

8.3 Copies of all memos and letters prepared on behalf of the Commission shall be provided to all Planning Commission members.

## SECTION 9 – DELEGATION OF AUTHORITY

9.1 The Commission may delegate some of its authority to the Chair in order to expeditiously and efficiently perform the work of the Commission. This would include such items as the signing of subdivision plats and letters when the Commission has approved such documents. In the absence of the Chair, the Vice-Chair, or Secretary may perform this work in order to expeditiously dispose of these administrative matters. The Director of Development Review is authorized to sign minor subdivision plats, and to sign preliminary subdivision plans and final subdivision plats that have been approved by the Commission. (01-20-99) (09-15-04)(1-8-20)

## SECTION 10 – RELATIONSHIPS WITH OTHER PLANNING COMMISSIONS, AGENCIES AND GOVERNMENT BODIES

10.1 Though this Commission recognizes that its powers and responsibilities within the County do not extend to land within incorporated municipalities or to counties whose boundaries adjoin Frederick County, the Commission will, where appropriate, assist and coordinate its activities with these municipalities and counties and their planning and zoning agencies, and on request, will provide staff assistance to those agencies within the limits of available resources. With those municipalities and counties that have planning staff, the Commission seeks out mutual cooperation.

## SECTION 11 – COMMISSION – STAFF RELATIONSHIPS

11.1 The Commission endorses the provisions of Title VI of the Civil Rights Act of 1964 pertaining to equal opportunity in employment. (01-20-99)

11.2 The Director is the normal contact for all routine communications between Commission members and the staff. The Director of Development Review is the normal contact for development review agenda items. The Director of Livable Frederick is the normal contact for comprehensive planning agenda items. (09-13-23)

11.3 Commission members take no part in the daily routine of administration of regulations and research of matters of fact, although they may participate in field trips and discussions pertaining to the more significant matters to be considered at Commission meetings. (10-19-05)

11.4 Matters of policy and important changes in the administration of the Commission's affairs are developed by the Director on behalf of the Commission and presented for resolution to members at regular meetings.

## SECTION 12 – AMENDMENTS

Amendments to these Rules may be introduced at any meeting of the Commission and voted upon at any subsequent regular meeting, passage requiring a majority vote of the membership, provided public notice is advertised in the newspaper at least fourteen (14) days prior to the vote on the amendment(s). (3-14-74) (09-15-04)

## SECTION 13 – VARIANCE

Upon majority agreement of the members (if a quorum is present) at a meeting, these Rules may be temporarily modified to accommodate extenuating circumstances or as provided for in Section 6.7. (01-20-99) (09-13-23)

The foregoing is a true and correct copy of the Rules of Procedure of the Frederick County Planning Commission as amended through the 13th day of September, 2023.

ATTEST:



Craig Hicks, Chair



Joel Rensberger, Vice-Chair



Tim Davis, Secretary