

# PENINSULA TOWNSHIP PLANNING COMMISSION BYLAWS

The following rules of procedure are hereby adopted by the Peninsula Township Planning Commission to facilitate the performance of its duties as outlined in the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, and the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

Adopted: July 15, 2019

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## **A. COMPLIANCE**

To the extent required by law, the Planning Commission shall conform its activities in compliance with all existing state and local laws, local ordinances and regulations, and the Michigan Freedom of Information Act, Public Act No 442 of 1976, as amended, and The Open Meetings Act, Public Act No. 267 of 1976, as amended.

## **B. MEMBERS AND OFFICERS**

### **1. MEMBERSHIP**

Seven members are appointed to the Planning Commission per Ordinance 42 of 2010 of Peninsula Township.

### **2. SELECTION AND TENURE OF OFFICERS**

At the first regular meeting each September, the Planning Commission shall select from its membership a Chairperson, Vice-Chairperson and Secretary. All officers shall serve a term of one year, or until their successors are selected and assume office, except as noted in 1 and 2 in Section C, below.

### **3. CHAIRPERSON**

The Chairperson shall preside at all meetings, appoint committees and perform such other duties as may be ordered by the Planning Commission.

### **4. VICE-CHAIRPERSON**

The Vice-Chairperson shall act in the capacity of the chairperson in his/her absence. In the event the office of chairperson becomes vacant, the Vice Chairperson shall succeed to this office for the unexpired term, and the Planning Commission shall select a successor to the office of Vice Chairperson for the unexpired term.

### **5. SECRETARY**

The Secretary shall execute documents in the name of the Planning Commission, perform such other duties as the Planning Commission may determine

## **C. PLANNING COMMISSION REPRESENTATIVES**

### **1. TOWNSHIP BOARD REPRESENTATIVE**

Per Ordinance 42, one member of the Township Board shall be an *ex officio* member of the Planning Commission with full voting rights. This representative shall provide reports, updates and enhanced communication between the Township Board and Planning Commission.

### **2. ZONING BOARD OF APPEALS REPRESENTATIVE**

The Planning Commission may recommend that a representative serve as a member of the Zoning Board of Appeals. If appointed, that person shall report the actions of the Zoning Board of Appeals to the Planning

Commission to help inform the need for future zoning updates. The actual appointment is made by the Peninsula Township Board per the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

## **D. RECORDS**

### **I. MINUTES**

The Planning Director shall be responsible for maintaining a permanent record of the minutes of each meeting in accordance with MCL 15.269 et. seq., and which provides:

Each public body shall keep minutes of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes shall include all roll call votes taken at the meeting. The public body shall make any corrections in the minutes at the next meeting after the meeting to which the minutes refer. The public body shall make corrected minutes available at or before the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction.”

Meeting minutes must, at a minimum, indicate the body of which is meeting; the date, time and location of the meeting; motions and resolutions made, supported and results of the motion; and any action taken by the body which is not specifically indicated in motions or resolutions. When a public body conducts a public hearing (always within a public meeting), the minutes should include the comments and arguments of those promoting or opposing a particular matter which is the subject of the public hearing and the fact that an opportunity to be heard was given to those present.”

### **2. RECORDINGS**

If the tape was made for the purpose of transcribing the official minutes of the meeting, the tape must be retained until the minutes of that meeting are approved. At that time, the tape may be erased, taped over or destroyed, unless a Freedom of Information Act (FOIA), Public Act 442 of 1976 (MCL 15.231, et seq.) request has been received for a copy of the tape. Recordings made for the purpose of transcribing the official minutes are subject to disclosure under the FOIA. Recordings made by board members or the public for a purpose other than transcribing the official minutes are not subject to FOIA disclosure. Once the FOIA request has been completed, the tape may be destroyed. The exception to this rule is when a tape is made of a closed meeting.

### **3. SPECIAL LAND USE ACTIONS**

The Michigan Zoning Enabling Act (MZEA) is the statute that controls decisions on special land uses. The MZEA says in part: “(4) The body or official designated to review and approve special land uses may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.” (MCL 125.3502).

### **4. CORRESPONDENCE**

The Planning Director shall be responsible for issuing formal written correspondence with other groups or persons, as directed by the Planning Commission. All communications, petitions, reports or other written materials received by the Secretary shall be brought to the attention of the Planning Commission.

## **5. ATTENDANCE**

The Secretary or Planning Director shall be responsible for maintaining an attendance record for each Planning Commission member and report those records annually to the Planning Commission for inclusion in the annual report to the Township Board.

## **6. NOTICES**

The Secretary or Planning Director shall issue notices as may be required by the Planning Commission.

# **E. MEETINGS**

## **1. REGULAR MEETINGS**

The Planning Commission shall hold not less than four regular meetings each year and by resolution shall determine the time and place of such meetings. Other meetings may be held as necessary. When a regular meeting falls on a legal holiday or upon a day resulting in a conflict, the Planning Commission shall, if possible, select a suitable alternate meeting date in the same month as the originally scheduled meeting.

Notice of regular or scheduled Planning Commission meetings shall be posted at the principal Township office within 10 days after the Planning Commission's first meeting in each fiscal year in accordance with the Open Meetings Act.

## **2. SPECIAL MEETINGS**

Special meetings may be called by the Planning Director, Chairperson or upon written request to the Secretary by at least two members of the Planning Commission. The business the Planning Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act. All costs of special meetings held to consider requests of applicants for approvals under the zoning ordinance (or for such other purposes as may be necessary) shall be paid by the applicant for such requests.

Notice of special meetings shall be given to the members of the Planning Commission at least forty-eight (48) hours prior to the meeting. Such notice shall state the purpose, time and location of the special meeting and shall be posted in accordance with the Open Meetings Act.

## **3. PUBLIC RECORDS**

Meetings, minutes, records, documents, correspondence and other materials of the Planning Commission shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.

## **4. QUORUM**

Four members of the seven-member Planning Commission shall constitute a quorum for transacting business and taking official action for all matters.

## **5. VOTING**

An affirmative vote of the majority of the Planning Commission membership is required to adopt any part of the master plan or amendments to the plan (MCL 125.3843). Unless required by statute, other actions or motions placed before the Planning Commission may be adopted by a majority vote of the membership in attendance, as long as a quorum is present. Voting shall be by voice vote; a roll call vote shall be required if

requested by any commission member or directed by the Chairperson. All Planning Commission members, including the Chairperson, shall vote on all matters, but the Chairperson shall vote last.

## **6. MOTIONS/RECONSIDERATIONS**

The Chairperson shall make rulings on procedural matters to come before the Planning Commission subject to a motion to overrule approved by a majority of the members present.

## **7. AGENDA**

The Planning Director shall be responsible for preparing and distributing an agenda for Planning Commission meetings. The suggested order of business for meetings:

CALL TO ORDER

PLEDGE

ROLL CALL

ADDITIONS TO AGENDA/APPROVAL

REVIEW FOR CONFLICT OF INTEREST

BRIEF PUBLIC COMMENTS

CONSENT AGENDA -Approval (any member of the Commission or Public may request an item to be removed from the Consent Calendar and placed on the Agenda).

- Previous Planning Commission Minutes and Committee Notes
- Communications/Correspondence
- Items to remain tabled
- Other

REPORTS

BUSINESS ITEMS

- Public Hearings
- Other Business Items

PUBLIC COMMENT

OTHER MATTERS OR COMMENTS BY THE PLANNING COMMISSION

ADJOURNMENT

## **8. PUBLIC HEARINGS**

All public hearings held by the Planning Commission must be held as part of a regular or special meeting of the Planning Commission. The following rules of procedure shall apply to public hearings held by the Planning Commission:

1. Chairperson opens the public hearing and announces the subject.
2. Chairperson summarizes the procedures/rules to be followed during the hearing.
3. Planning Director and/or other Township staff introduces the subject, presents comments, a report and recommendations as applicable.
4. Applicant presents the main points of the application.
5. Persons wishing to comment on the application are recognized and shall give name and address to the recording secretary.

6. Chairperson closes the public hearing and returns to the regular/special meeting.
7. Planning Commission begins deliberation with a decision to be acted on no sooner than the following meeting unless a motion to waive the delay is adopted by a majority of those present.

To ensure everyone has the opportunity to speak, the Chairperson may elect to limit the time permitted for each person to speak, except that the applicant may be permitted additional time as the Chairperson allows. The Chairperson may also elect to allow persons to speak only once, until all persons have had the opportunity to speak, at which time the Chairperson, in his/her discretion, may permit additional comments.

All comments by the public, staff and the Planning Commission shall be directed to the Chairperson. All comments shall be related to the land use request; unrelated comments shall be ruled out of order.

A written notice containing the decision of the Planning Commission will be sent to petitioners and originators of the request. Members, when casting their vote on the subject of the Public Hearing, shall provide sufficient reasons to support their vote.

## **9. DEADLINES FOR SUBMITTAL OF MATERIALS**

To facilitate thorough and complete review of agenda items, it is the policy of the planning commission to have complete applications, payment of fees and related material for action items submitted to township staff two weeks or more before a meeting. Action items include (but are not necessarily limited to) scheduling a public hearing for a future date (contingent on the receipt of a complete application and subject to notice requirements), decisions on special use permit applications, and planned unit development projects. Specifically, if a regular or special meeting falls on a Monday, all formal applications, fees and supporting material must be submitted on or before 8 AM on the Monday that falls two weeks before such meeting. This supports the goal of having meeting packets distributed to members, published and available to the public at least 5 or 6 days before the meeting. Requests to place non-action items on the agenda that involve minimal or no packet materials (i.e., project introductions, project updates, etc.) may be made one week before a meeting (before 8 AM on the Monday that falls one week before such meeting). If changes or updates to an application or any supporting materials are proposed between the applicable deadline and the meeting date, the planning commission reserves the right to defer consideration of changes until a subsequent meeting.

## **F. PLANNING COMMISSION DUTIES**

The Planning Commission shall perform the following duties in accordance with the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, and the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. These duties include, but are not limited to:

1. Take such action on petitions, staff proposal and Township Board requests for amendments to the zoning ordinance as required.
2. Consider any information and recommendations furnished by appropriate public officials, departments, or agencies.
3. Report on the administration and enforcement of the Zoning Ordinance and make recommendations for amendments and supplements thereto (MCL 125.3308 (2)).
4. Take such action on petitions, staff proposals and Township Board requests for amendments to the master land use plan as required.
5. Prepare an Annual Report to the Township Board

6. Taking such actions as are required by the Michigan Zoning Enabling Act (Act 110 of 2006).
7. Review requests for action planning proposals and land use proposals and recommend appropriate actions to the Township Board.
8. Prepare special studies and plans, as deemed necessary by the Planning Commission and Township Board and for which appropriations of funds have been approved by the Township Board, as needed.
9. Attend training sessions, conferences or meetings as needed to properly fulfill the duties of Planning Commissioner and for which appropriations of funds have been approved by the Township Board, as needed.
10. Prepare a Capital Improvements Plan
11. Perform other duties and responsibilities, and respond as requested to the Township Board.

## **G. PLANNING COMMISSION COMMITTEES**

The Chairperson may appoint advisory committees, comprised of members of the Planning Commission and other citizens, to assist the Planning Commission and Planning Director with research, analysis, and identification of issues and alternatives on issues before the Planning Commission. These advisory committees shall not be delegated any authority to exercise governmental or proprietary authority or perform govern a governmental or proprietary function, or make decisions.

## **H. PLANNING COMMISSION CALENDAR**

Election of Planning Commission Officers – September  
 Appointment of Standing Committees – September  
 Annual Report to Township Board – January

## **I. DUTIES OF THE PLANNING DIRECTOR**

The Planning Commission shall be assisted by the Township Planning Director in performing the Planning Commission's duties. He or she shall be responsible for the professional and administrative work in coordinating the functions of the Planning Commission. The duties of the Planning Director include:

1. Accept applications for matters to be reviewed by the Planning Commission and ensure that such applications are complete.
2. Forward application materials, when available, to the Planning Commission at least 72 hours prior to the meeting at which the matters will be considered.
3. Inform the Planning Commission of administrative and enforcement actions taken on behalf of the Township related to the zoning or other appropriate ordinance.
4. Make recommendations regarding the Master Plan.
5. Attend Planning Commission meetings.
6. Consult with the Planning Commission, Zoning Administrator and other Township officials concerning interpretation, procedural questions and other matters arising from the zoning ordinance.
7. Prepare amendments to the zoning ordinance as directed by the Planning Commission.



8. Prepare and forward to the Zoning Administrator written reviews and recommendations, if appropriate, for all requests and development proposals to be considered by the Planning Commission.
9. Meet with applicants, their representatives and/or Township officials as needed to properly perform project reviews.
10. May engage employees, including those necessary for technical assistance as it requires.
11. Perform other duties as directed by the Planning Commission.

The Planning Commission and Planning Director may be assisted by other professional or Township staff as needed, including professionals pertaining to the adopted Township escrow policy, Township Attorney, Township Zoning Administrator, Township Engineer or other person or agency.

## **J. ABSENCES, RESIGNATIONS AND VACANCIES**

1. To be excused, members of the Planning Commission shall notify the Planning Director or Planning Commission Chairperson when they intend to be absent from a meeting. Failure to make this notification prior to the meeting shall result in an unexcused absence.
2. A member may resign from the Planning Commission by sending a letter of resignation to the Township Supervisor, Township Board or the Planning Commission Chairperson.
3. Vacancies shall be filled by the Township Supervisor, with the approval of the Township Board, within one month of resignation or removal of a Planning Commission member. Successors shall serve out the unexpired term of the member being replaced.

## **K. CONFLICT OF INTEREST**

Prior to engaging in any decision making, Planning Commission members shall declare a conflict of interest and abstain from participating in a hearing or deliberations on a request or matter coming before the Planning Commission when circumstances exist that may prevent them from making an impartial decision. Specific guidance pertaining to circumstances that create a conflict of interest are found in Ordinance 42 and from legal counsel. When a conflict of interest exists, the individual shall not participate in any Planning Commission discussion or votes relative to the matter that is the subject of the conflict.

## **L. EX-PARTE COMMUNICATION**

The Michigan Open Meetings Act covers the meetings of public bodies. The law defines a "public body" as: any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function; a lessee of such a body performing an essential public purpose and function pursuant to the lease agreement; or the board of a nonprofit corporation formed by a city under [Michigan law].

Pursuant to the Open Meetings Act, a "meeting" is any gathering of a quorum of members of a governmental body to discuss or take action regarding official business or policy. A quorum is a just a simple majority of the members of the public body. The term "meeting" also applies to information-gathering and

fact-finding sessions called by the governmental body where a quorum of members is present and the session relates to the body's public business.

Members of the Planning Commission, during a meeting of the Planning Commission, may not e-mail, text, or engage in other forms of electronic communications among members as such communication may constitute deliberations toward decision-making or actual decisions.

Chance or planned meetings of members of the Planning Commission outside of Planning Commission public meeting does not violate the Open Meetings Act, provided that the meeting does not consist of a quorum of the members.

Further, an informal canvas by one member of a public body to find out where the votes would be on a particular issue does not violate the Open Meetings Act.

**M. REMOVAL OF A MEMBER**

Members of the Planning Commission may be removed from office in accordance with provisions in Ordinance #42.

**N. EXPENSES AND COMPENSATION**

Members of the Planning Commission may be reimbursed for reasonable expenses incurred in the discharge of their duties and may receive compensation as fixed by the Township Board.

**O. AMENDMENTS**

These bylaws may be amended at any meeting by a vote of four members of the Planning Commission.

Adopted by the Peninsula Township Planning Commission: July 15, 2019

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Todd Oosterhouse, Secretary