

RULES OF PROCEDURE OF THE PLANNING COMMISSION OF THE CITY OF BURLINGAME

I. Purpose.

These Rules of Procedure are adopted pursuant to Burlingame Municipal Code § 3.40.030 to guide proceedings before the Commission.

II Officers.

- A. *Offices.* There will be a Chair, a Vice Chair, and a Secretary.
- B. *Term of office.* Each officer of the Commission will serve for a one-year term and hold office until the officer's successor is rotated to the office, or the Commissioner's term as Commissioner ends, whichever occurs first.
- C. *Rotation of officers.* Officers will be rotated at the Commission's first regular meeting in May of each year. The rotation order is as follows:
 - 1. Vice Chair becomes Chair.
 - 2. Secretary becomes Vice Chair.
 - 3. Commissioner who is not an officer, who has served the longest period of time on the Commission, and who has not yet served as Chair becomes Secretary.
 - 4. If two or more Commissioners have the same length of service on the Commission are eligible under subpart C above, then the Secretary shall be chosen from among them by a random draw.
 - 5. If all Commissioners who are not then officers have served as Chair making subparagraph (3) inapplicable, then the Secretary shall be the Commissioner whose service as Chair was the most distant in time.
 - 6. A Commissioner eligible under this subpart may decline to serve, in which case the next Commissioners in the rotation process shall be rotated to the offices affected.
- D. *Vacancies.* If an office becomes vacant during the year, rotations for that office shall be made as provided in subpart (C) above at the next regular meeting of the Commission following the occurrence of the vacancy. The persons rotated to new

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offices when such a vacancy occurs shall serve the balance of the one-year term for the offices; however, if the office that was vacant is the Chair and the term remaining is less than 6 months, then the rotated officers shall serve the balance of the term plus an additional one-year term.

- A. *Duties of the Chair.* The Chair performs the following duties:
 - 1. Presides at all meetings of the Commission.
 - 2. Signs correspondence on behalf of the Commission.
 - 3. Represents the Commission before the City Council.
 - 4. Performs other duties necessary or customary to office of the Chair.
- B. *Duties of the Vice Chair.* In the event of the absence, disability, or disqualification of the Chair to act as Chair, the Vice Chair performs the duties of the Chair.
- C. *Duties of the Secretary.* The Secretary performs the following duties:
 - 1. Executes resolutions of the Commission.
 - 2. In the event of the absence, disability, or disqualification of the Chair and the Vice Chair to act as Chair, the Secretary performs the duties of the Chair.
- D. *Absence of officers.* If none of the three (3) elected officers are able to perform the duties of Chair because of absence, disability, or disqualification, the remaining Commissioners shall elect one of themselves to act as temporary Chair.
- E. *Committees and subcommittees.* The Commission, or the Chair with the authorization of the Commission, may create committees or subcommittees to study or advise the Commission on matters within the jurisdiction of the Commission. These committees or subcommittees may be composed of Commissioners or members of the public, or both, so long as fewer than a quorum of the Commission serve on the committee or subcommittee. Such committees or subcommittees shall be advisory only to the Commission and shall direct all communications to only the Commission.

III. Types and Places of Meetings

- A. *Regular meetings.* Regular meetings of the Commission shall be held on the second and fourth Mondays of each month at 7:00 p.m. in the City Council Chambers of the City Hall. The Commission may cancel a regular meeting, or may schedule a regular meeting at a different date and time or place within the City. The Commission may also adjourn or continue a meeting to such date as the Commission may determine.

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- B. *Special meetings.* A special meeting of the Commission may be held at a time and place within the City as may be determined by a vote of the Commission or by call of the Chair.
- C. *Study sessions.* The Commission may hold a study session on any application or planning issue at any regular or special meeting of the Commission.

IV. Quorum and Voting

- A. *Quorum.* Four Commissioners, a majority of the membership of the Commission, constitutes a quorum for purposes of conducting any business of the Commission. However, a meeting may be continued to a new date and time with less than a quorum present at a regular or special meeting of the Commission.
- B. *Vote required.* Unless otherwise required by State law, official action of the Commission requires the affirmative vote of a majority the Commissioners present, and never less than three (3). Abstentions and disqualifications do not count as affirmative votes.
- C. *Eligibility to vote.* A Commissioner shall be eligible to vote on an administrative application even though the Commissioner was absent from a prior hearing on the same application if the Commissioner has listened to the audiotape or if available, the videotape of that prior hearing. A Commissioner is eligible to vote on a procedural matter or legislative recommendation regardless of the Commissioner's attendance at a prior discussion or hearing, without having listened to a tape of the prior proceeding, and to vote at an administrative hearing even though the Commissioner was absent from a prior study session without having listened to a tape of the prior study session.
- D. *Manner of voting.* Votes may be taken by voice vote or roll call at the discretion of the Chair. Any Commissioner may request a roll call vote, which shall then be taken. No votes shall be by secret ballot.
- E. *Effect of a tie vote.* A tie vote defeats a motion. Unless a subsequent motion is made and adopted, a tie vote on the merits of a planning application before the Commission means a denial of the application. When acting on a recommendation to the Council on legislation, the Commission may forward the results of its discussion to the Council although the Commission was unable to reach a majority vote on a specific recommendation.

V. Order of business

- A. *Regular meeting.* The usual order of business at a regular meeting of the Commission will be:
1. Call to Order.
 2. Roll Call.
 3. Approval of minutes of previous meetings.
 4. Review of agenda.
 5. Public Comment period for study items and items not appearing on the meeting agenda.
 6. Items for study (review and questions - no public participation).
 7. Consent calendar (action).
 8. Items for public hearing or action, or both.
 9. Items for Design Review Study and Environmental Scoping (public comment).
 10. City Planner/Committee/Subcommittee Reports
 11. Adjournment.
- B. *Special meetings.* Special meetings of the Commission will usually be limited to a few agenda items, and the agendas will be developed around those items, but will include a public comment period before action is taken on any item.
- C. *Change in agenda order.* With the consent of the Commission, the Chair may change the order of any agenda item for the convenience of the public or the Commission.
- D. *Study items.*

1. Study items under Agenda item 6 are usually presented at a meeting for review by the Planning Commission for questions to provide staff and the applicant with an opportunity to better prepare for the public hearing on the item. No testimony or presentation by the applicant or any other member of the public is taken during such a study item. The City Planner may elect to not place an

application on an agenda as a study item and instead take it directly to action if the City Planner believes that the application is complete and the documentation provided will not generate any substantial questions.

2. Applications involving R-1 District design review, C-1 District Design Review, or Environmental Scoping, whether they include other planning approvals or not, are considered under a separate study procedure, Agenda item 9. During such a study item, the applicant and other interested persons may comment on the application and the Commission may ask questions of the applicant and other interested persons. Unlike other study items, these study items are noticed according to City procedures. Following an R-1 or C-1 District Design Review study item, the Commission will determine whether to refer the application to the design review professional under Chapter 25.57 or proceed directly to action at a subsequent meeting of the Commission. Comments made during an Environmental Scoping item will be used by staff to develop the necessary environmental documents for the underlying application.

E. *Consent calendar.* Items are placed on the consent calendar because either the City Planner believes that they have little or no controversy or the Commission has directed their placement on the consent calendar for faster consideration and approval. However, an item will be removed from the consent calendar if:

1. Any interested person requests in writing before the Commission meeting that the item be removed from the consent calendar for hearing.

2. During the public comment period, any interested person requests that the item be removed from the consent calendar.

3. Any commissioner requests that the item be removed from the consent calendar.

Any person or commissioner may ask a question regarding an item on the consent calendar, and the Chair at the Chair's sole discretion may decide whether to allow a response to the question or to proceed to remove the item from the consent calendar and hold a hearing on the item. Any item removed from the consent calendar will normally be heard during the public hearing calendar on that evening's agenda in the same order as set on the agenda.

VI. Continuances and appearances by applicants

A. *Requests for continuances.* At any time, any person may request the Commission to continue any item to a future meeting, and an applicant may request the

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applicant's application to an indefinite date or a future meeting on a showing of good cause.

- B. *Commission discretion.* The Commission shall have sole discretion to determine whether to grant the requested continuance after considering the reasons for the request, the effect on the applicant and interested persons, and State and City laws governing the application.
- C. *General policy toward applicant requests.* Generally, the Commission will grant a first request for a continuance by an applicant, but no applicant should assume that such a request will be granted and should appear at the scheduled time in support of the request.
- D. *Determination on continuance.* Approval of continuance requests require a vote of the Commission. Any continuance and the proposed noticing for the continued hearing, if any, should be announced by the Chair or City Planner.
- E. *Costs of renoticing.* The applicant shall pay the costs of providing any notice required or ordered by the Commission on a continuance requested by the applicant.

VII. Failure of applicant to appear

- A. *Action by Commission.* If an applicant does not appear at the time set for public hearing on the applicant's application, the Commission may continue the application, drop the application from the agenda, or proceed to hear and take action on the item.
- B. *Payment of costs.* The applicant shall pay the costs of providing any notice required or ordered by the Commission when an application is continued or dropped from an agenda because the applicant did not appear at the hearing on the application.

VIII. Public hearing process

- A. *Order.* The following process will usually be followed on items set for public hearing:
 - 1. Chair will call the item for hearing. If the hearing procedure has not already been described by the Chair at that meeting, the Chair will tell the audience what the general procedure for the hearing will be.

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2. Any Commissioners with a potential conflict of interest will declare the potential conflict and disqualify themselves from participation. Any Commissioners who have visited the site of the application or received any information outside the record will state that information.
 3. City staff will present a report on the matter and respond to questions from the Commission, and the Commission may indicate any aspects of the application on which the Commission would like additional information or comments.
 4. The applicant, if any, will present any additional information or testimony not provided in the staff report, respond to the staff report, and respond to questions from the Commission.
 5. Any other interested persons may present any additional information or testimony not provided by the staff report or the applicant, and respond to questions from the Commission. Interested persons are encouraged not to repeat testimony that has already been presented. If a person wants to simply affirm that he or she agrees with a previous speaker, the person should do so.
 6. After all interested persons have been given the opportunity to speak, the applicant may respond to any comments by interested persons, make a concluding statement, and respond to questions from the Commission. The concluding statement should be made by a single person, unless there are compelling reasons for technical responses by more than one expert.
 7. The Chair will close the public hearing.
 8. The Commission will discuss the application and take such action as may be appropriate.
- B. *Deferral to Chair.* All comments and questions by both Commissioners and the audience are directed to and through the Chair.
- C. *Identification of persons giving evidence.* All persons giving testimony shall identify themselves by name and address.
- D. *Time limitations.* The Chair may limit the time for presentation of testimony by each person, and in any event, it is expected that no person, except for the applicant, shall testify longer than five (5) minutes. However, the Chair may extend this time period if the person is making a combined presentation on behalf of a large number of persons. The applicant shall be expected to present a brief overview of the project and respond to pending questions and concerns in no more

than fifteen (15) minutes; at the conclusion of the public hearing, the applicant's response should be no longer than five (5) minutes.

- E. *Multiple appearances.* Except for the applicant and responses by staff, no person shall be allowed to testify more than once during a hearing unless the Chair determines that the person's second testimony will provide vital information to the Commission that has not already been presented.
- F. *Effect of hearing closure.* After closure of the public hearing, the Commission will not receive any additional evidence unless the hearing is reopened by the Chair with the consent or vote of the Commission. However, the Commission may ask the applicant for consent to specific conditions on the application or for clarification by the staff without reopening the public hearing.
- G. *Control of proceedings.* The Chair may direct any speaker to end or move on with testimony if the testimony is repetitive of matters already presented or is irrelevant to the application before the Commission.
- H. *Decorum.* Hearings before the Commission are held under informal rules of evidence and are intended to promote the interests of the community. Personal attacks and attempts to intimidate citizens, whether applicants or interested citizens, are strongly discouraged and will be ruled out-of-order.
- I. *Deliberations.* Commissioners shall not reach any conclusion on an application before the close of the public hearing. The determination of the Commission is to be based on the record presented to the Commission as well as the Commissioners' experience and knowledge of the community. Commissioners are responsible for making their best efforts to articulate the reasons for their determination are discussed on the record and findings made as discussed below.

IX. Submission of written materials

- A. *Written submission encouraged.* Interested persons are encouraged to submit written materials for Commission consideration prior to the public hearing on the item. This saves time at the hearing and better focuses the discussion and testimony.
- B. *Timeliness.* In order to be included in the packet provided to the Commission before the hearing, written materials must be provided to the City Planner no later than ten (10) days before the public hearing.

- C. *Late submission.* Written materials may also be presented to the City Planner for Commission consideration at a later time up to the close of the public hearing.
- D. *Number of copies if submitted late.* If written materials are provided by the applicant at the hearing itself, the presenter is expected to provide at least 8 copies, so that each commissioner and the City Planner will each have a copy. If any other person presents written materials, the presenter is expected to provide nine copies so that the applicant may also have a copy for review.
- E. *Retention of submittals.* Photographs, story boards, and other large presentation materials may be provided in only one original without copies, but these materials are required to be left with the City Planner for record purposes and will not be returned for an extended period of time.

X. Receipt of information outside the public proceeding

- A. *Site visits.* It is expected that Commissioners will visit the site of a proposed project on an individual basis. Although not expected or required, individual commissioners may discuss or meet with the applicant or other interested persons, but in no event shall any commissioner commit to a particular vote or decision before the close of the public hearings on that item. It is important to remember that Commissioners are responsible for ensuring the actual integrity of the process and the public's confidence in that process by being even-handed to all interested persons.
- B. *Disclosure.* Any discussion with the applicant or any interested person shall be summarized by the individual commissioners prior to the staff report on the item.

XI. Findings

- A. *Generally.* Findings are the means by which the statutory and ordinance requirements are tied to the specific facts of an application. Applicants are expected to provide the Commission with proposed findings that justify the approval of the application under relevant law and policy.
- B. *Motions.* In making motions for approval or denial, Commissioners may incorporate the findings outlined in the reports of staff and proposed findings offered by applicants or other interested persons, as well as articulating their own findings that allow the City Council and the public to understand how the decision was reached.

- C. *Additional preparation.* If the complexity or breadth of a particular application requires extensive findings, the Commission may request staff to prepare written findings in accordance with Commission discussion for review and possible adoption at a subsequent meeting.

XI. Denial without prejudice

- A. *Effect.* The Commission may deny an application without prejudice, which means that the applicant may submit a similar application at any time in the future for consideration by the City.
- B. *Reasons given.* In making the denial without prejudice, the Commission or individual commissioners may provide the applicant with suggestions on how the application might be redone to address the concerns raised at the public hearing. However, none of those suggestions shall be interpreted as binding in any way on any future review or action by the City regarding that property or any other property.

XII. Appeals

Following a final decision of the Commission, the Chair will announce the rights of appeal of the decision as established by the Municipal Code and Council resolutions. Persons interested in appealing a decision should contact the Planning Department the next business day to make sure that the appeal process, fees, and time requirements are understood. Normally, an appeal must be filed by the end of the next City Council meeting, which is usually only seven (7) days after the Commission decision.

XIII. Relationship with Council, Other Boards and Commissions, and Public

- A. *Council communications.* The principal source of communication with the Council is through Commission minutes. Direct communication on behalf of the Commission should be directed through the Chair or the City Planner. With the consent of the Commission, other Commissioners may be authorized to represent the Commission before the Council.
- B. *Requests to other Boards and Commissions.* Because the Commission is advisory to the Council, requests for information from or for review by other City boards and commissions should be directed to the Council for approval.

- C. *Communications with the public.* Public statements on behalf of the Commission should be approved by the Commission before release.

XIV. Requests for Staff Information

- A. *General policy.* Individual Commissioners may request additional information from staff members to assist in their analysis of applications. However, this information is to be provided to all Commissioners.
- B. *Limitations.* Individual Commissioners should not request staff members to prepare information that will consume significant amounts of time without consulting with the City Engineer or City Planner, as appropriate. The better procedure is to make such a request at a meeting of the Commission.

XV. Effect of the Rules of Procedure

These rules of procedure are intended to provide the basic guidelines for the conduct of Commission business. Any failure to follow a specific provision of these rules shall not be grounds for overturning any decision or action of the Planning Commission nor shall any improper admission or rejection of evidence or any other error, irregularity, informality, neglect, or omission as to any matter pertaining to any matter before the Commission, unless the misstep was prejudicial and that the party complaining or appealing suffered substantial injury from that error and that a different result would have been probable if the error had not occurred. There shall be no presumption that the misstep was prejudicial or that injury was done if the misstep is shown.