

**By-Laws of the Planning Commission
of Sandy City, Utah
2019**

Article 1: Authority

The Sandy City Planning Commission (hereinafter "Commission") shall operate under the authority of the Municipal Land Use, Development, and Management Act (LUDMA) contained in Title 10 Chapter 9a, Utah Code Ann. (hereinafter U.C.A.) and of the Land Development Code of Sandy City, Utah (hereinafter LDCSC) contained in Title 21 of the Sandy City Municipal Code.

Article 2: Purpose

The Planning Commission shall make recommendations to the Mayor and the City Council as more specifically set forth in the LDCSC and make determinations as specifically delegated to it as set forth therein. This does not include policy making powers of the City which remain under the control of elected officials.

Article 3: Appointment and Terms of Members

The City Council has established that:

The Commission consists of seven regular members and two alternates appointed by the Mayor, with the advice and consent of the City Council. The alternates attend all meetings of the Commission but do not vote on Commission decisions unless serving in place of a regular member. When an alternate is needed in place of a regular member, the two alternate members rotate the responsibility.

Terms of office for regular and alternate members of the Commission are four years commencing at noon on March 31st of the year in which the appointment is made. The terms of office for the regular Commission members are staggered at intervals so as to provide continuity in policy and personnel.

Regular and alternate members of the Commission are selected from the residents of the City of Sandy. Vacancies for the term of any member whose term is not completed are filled for the unexpired portion of the term in the same manner as for other members. A member whose term has expired may continue to serve until reappointed or his successor has been appointed and approved.

Article 4: Establishment of Subcommittees

Subcommittees of the Commission may be established by the Commission as needed or requested. The subcommittee shall report the status of the subcommittee's activities at Commission meetings. Subcommittees may consist of regular members of the Commission and others approved by the Commission.

Article 5: Planning Commission Officers and Their Duties

The Commission elects a Chair and Vice-Chair from its regular members every six months. At the Commission's discretion, nominations for each office may be received from the regular Commission members at the meeting before voting. In any case, voting shall be by secret ballot by regular and alternate members. There shall be a separate vote for each office. The Chair and Vice-Chair may be elected to successive terms. Alternate members shall not be eligible to serve as Chair or Vice-Chair.

The Chair or designee presides at all hearings and meetings of the Commission, assures proper order of the Commission and the public in all proceedings, signs all documents of the Commission, prepares the agenda of the Commission, and represents the Commission before legislative and administrative bodies.

The Vice-Chair performs the duties of the Chair in the absence of or at the request of the Chair, as well as other duties which may be assigned by the Chair.

In the absence of both the Chair and Vice Chair, the duties of the Chair shall be assumed by a Chair pro tem. The Chair pro tem shall be the regular member in attendance selected by the Community Development Director.

Article 6: Meetings and Hearings of the Commission

As defined and specified by the Open and Public Meetings Act (the Act) Title 52 Chapter 4 U.C.A., all meetings of the Planning Commission are open to the public unless closed pursuant to the provisions of the Act.

Hearings and meetings of the Commission will be conducted according to Robert's Rules of Order as modified by general practice or consensus of the Commission unless otherwise specified by these by-laws or City ordinance, and may include the following:

Regular Meetings. Regular Meetings are generally held on the first and third Thursday of each month or as scheduled by the Commission.

Executive Sessions. Executive Sessions are generally held immediately prior to regular meetings or as otherwise scheduled. Executive Sessions may be for the purpose of inspecting sites on the agenda, continuing education for Commissioners, gathering information, discussing or implementing administrative or operational matters or for other information.

Public Hearings. Public Hearings, as required by ordinance or statute, are generally held in conjunction with regular meetings or as otherwise scheduled.

Emergency Meetings. Emergency Meetings may be called, when because of unforeseen circumstances it is necessary for the Commission to consider matters of an emergency or urgent nature, pursuant to the Act.

Closed Session. Closed Meetings shall not generally be held by the Commission. Only those circumstances outlined in the Act shall be justification for closing a meeting, and the provisions of the Act shall apply to any meeting so closed.

Electronic Meetings. The Commission may hold electronic meetings by telephone, computer, or other telecommunication device if requested by a member of the Commission at least three (3) days in advance, and if approved by the Chair or by majority of the Commission. Members who participate in a Commission meeting through electronic means shall be counted in the quorum.

Article 7: Notice of Meetings and Hearings

1. Public notice of Commission meetings and hearings shall be consistent with the provisions of the Act, LUDMA, and LDCSC. Currently those provisions include:

a. An annual meeting schedule including the date, time, and place of regular meetings that are scheduled in advance over the course of a year is publicly noticed at least once each year; and

b. Not less than 24 hours public notice is given of the agenda, date, time and place of each of its meetings.

c. For emergency meetings held pursuant to Section 52-4-6 U.C.A. the regular notice requirements may be disregarded and the best notice practicable given pursuant to the provisions of the Act. An attempt should be made to notify all of the Commission members and a majority of the Commission must vote in the affirmative to hold the meeting.

2. Additional notice may be given at the discretion of the Community Development Director taking into account the scope of the matter to be heard, the effectiveness of different types of notice in the particular circumstance, the practicality of giving such notice, and other factors.

Any giving of notice or failure to give notice that is not specifically required by the Act, LUDMA, or LDCSC or the choice of one type of notice to the exclusion of any other type of notice shall not create a cause of action against the City or any of its Commissions, Boards, officers or employees by any person, corporation or other entity, nor shall any action taken by the Planning Commission be in any way invalidated due to such notice or lack thereof.

Article 8: Procedure of Meetings and Hearings

The Chair generally has the authority to determine the order of the agenda and to moderate and/or limit debate. The format shall be at the discretion of the Chair. The typical format is:

1. Consent Calendar. Consent calendar items may be pulled by individual members of the Commission for specific discussion and action.
2. Public Hearings and Other Applications.
 - a. Staff introduction
 - b. Applicants' presentation
 - c. Staff presentation
 - d. If the item has been noticed as a public hearing:
 - i. Open the public hearing
 - ii. Close the public hearing
 - e. If the item has not been noticed as a public hearing, public comment may be allowed as determined by the Chair
 - f. Planning Commission deliberation
 - g. Planning Commission motion
3. Other Business.
4. Approval of minutes of previous meeting.
5. Report by Director of Community Development.
6. Adjournment

The Commission shall not begin any new agenda item after 11:00 p.m. without a unanimous vote of those Commissioners present.

A presentation by a Planning Commissioner will not be allowed on behalf of an applicant, citizen, or any other person in support of or against an application. This does not prohibit a Planning Commissioner from speaking as a private citizen during a public comment period or public hearing.

Article 9: Form and Character of Motions

Generally, decisions concerning petitions heard at scheduled meetings are rendered immediately following Commission deliberation. If determined advisable by the

Commission, some decisions may be continued or tabled until a future Commission meeting. The Commission may set a specific date to which an item is continued or may table the item indefinitely.

Upon review of the full public record and due deliberation among the members of the Commission, any of its voting members may make a motion. The motion shall include not only direction (approval, approval with specified conditions, disapproval, continuance, etc.) but also a recitation of findings which support the motion.

A second of the motion, which may include additional findings, is required. A motion dies for lack of second.

Other Commission members may support the motion with other compatible findings, or may suggest amendments to the motion which shall, upon concurrence of the original maker of the motion and the maker of the second, become part of the motion to be considered.

Minutes of the meeting are kept as required by the Act including: motions and roll call of the vote by name. The reasons justifying the Commission's actions may be included. Reasons for voting against a motion may also be given. Written findings may be prepared and approved at a subsequent meeting when determined appropriate by the Commission.

Article 10: Notice of Decision and Right to Appeal

Generally, the Secretary sends a copy to the applicant of the approved minutes of the action taken on the application within a reasonable time after the minutes are approved. All appeals are governed by the provisions of state law and city ordinance.

Article 11: Quorum and Voting Requirements

The City Council in the LDCSC, has established that four members of the Commission constitute a quorum for the conduct of Commission business. No act of the Commission is effective unless at least four members concur in respect to it.

All votes are taken by the Secretary. Generally the Chair votes last. All votes are cast verbally except those as set forth in Article 5 above.

All Commission members vote except those who have abstained. A Commission member should abstain only if the member was not present during the presentation of the item. Abstention from voting is not counted in the determination of a motion but is recorded.

Members of the Commission do not vote on any question unless the member is present in person or by telephone, computer or other telecommunication device when the vote is

taken. No proxy voting is allowed.

Pursuant to the LDCSC, alternate members of the Commission do not vote unless serving in place of a regular member.

In the event of a tie vote or there is not concurrence of at least four members, the motion fails.

Article 12: Scheduling of Petitions

Items will be scheduled for the Commission agenda in accordance with the following sequence of activities:

1. Staff receives all information required by ordinance.
2. Staff completes its report and recommendation.
3. Staff and Commission Chair decide on appropriate date for discussion, and discussion is scheduled on that date.

No applications will be scheduled for Commission action until the applicants have provided all information required by applicable ordinances to City staff for review.

City staff reports on each application generally include the following information and other pertinent items presented in writing and graphically: name of applicant; type of

action requested; past actions on the same or related properties; current land use; social, economic or development trends related to the property; current public regulations applying to the property; compliance of the property's current status and proposed action with all approved general plan documents; impacts of approval of the proposed action for the property and related properties; and recommended action.

Copies of the agenda, requests, staff reports, and related documents generally are delivered to each regular and alternate Commission member no later than the Friday prior to each meeting.

In addition to the notice requirements set forth in LUDMA and LDCSC, when they become available materials and staff reports for scheduled agenda items may be reviewed by applicants and public at the Community Development Department, Sandy City Hall.

Withdrawal of set agenda items by the applicant is discouraged. Applicants who withdraw scheduled agenda items which have had public notice may be required to pay for a cancellation notice and/or a new application fee.

Withdrawal of an agenda item designated as public hearing is not generally permitted. However, the item may be continued to a date certain or tabled indefinitely and presented at a future scheduled meeting for action. The item will be re-noticed if the public hearing is not opened or if the item is tabled.

Article 13: Instruments and Documents of the Commission

1. The record of notice.
2. The agenda.
3. The minutes of hearings and meetings.
4. City staff reports for the various items on the agenda.
5. Materials submitted to the Commission regarding an item (including but not limited to requests, agency or consultant letters or reports, citizen petitions and resolutions).

Article 14: Administrative Calendar

The Commission may hold an annual meeting to review both the activities of the previous year and decide the work program for the coming year.

Article 15: Conduct of Members of the Commission

The Commission may recommend to the Mayor that a member be removed and specify the reason, which may include the following:

1. Failure to attend a minimum of 75 percent of scheduled meetings during any 12-month period. The Commission may grant its members leaves-of-absence for legitimate business, medical or other reasons including without limitation a member who files as a candidate for public office requesting a leave of absence until the date of the election.
2. Demonstrated inability or unwillingness to participate as a working member of the Commission including, but not limited to, such actions as:
 - a. Repeatedly showing a lack of preparation for meetings.
 - b. Habitual discourtesy toward applicants, public, staff, or Commission members.
 - c. Apathetic or negative attitude that hinders the Commission from functioning as an effective work group.
 - d. Unwillingness or inability to accept assignments to subcommittees and/or ad hoc committees.
 - e. Unwillingness or inability to attend training seminars and conferences.
3. Presenting to the Sandy City Council or other commission or board of Sandy City on behalf of an applicant, citizen, or any other person in support of or against an application submitted under the LDCSC. This does not prohibit a Planning Commissioner from speaking as a private citizen during a public comment period or public hearing.
4. Conduct that violates the Sandy City Employee Handbook.
5. Other conduct contrary to these By-Laws.

Article 16: Conflict of Interest

State and Local Law. All members of the Commission shall be familiar with and adhere to the provisions of Title 10 Chapter 3 Part 13, U.C.A., "Municipal Officers' and Employees' Ethics Act" and Sandy City conflict of interest and ethics ordinances.

Suspected Conflict.

1. If, prior to a scheduled meeting, a Commission member suspects that he/she may have a conflict of interest which would affect his/her employment or financial interests concerning any matter to be reviewed by the Commission, the member shall consult with the City Attorney's office as soon as practicable before the scheduled meeting for advice and a written opinion regarding the suspected conflict.

2. If, during a scheduled meeting, the Commission member first suspects that he/she may have a conflict of interest related to a matter being reviewed in that meeting, he/she shall verbally declare the suspected conflict on the record and recuse himself or herself as soon as the agenda item creating the suspected conflict is introduced. The member shall follow the recusal procedures in Article 20.

Known Conflict. If a Commission member knows that he/she has a conflict pursuant to State and/or Local conflict of interest and ethics, then the Commission member shall verbally disclose the conflict during the meeting in which the matter is being reviewed and shall follow the recusal procedures in Article 20.

Regular and alternate Commission members should avoid ex parte contact with individuals or groups concerning a matter that is to be considered by the Planning Commission. Any such contact should be disclosed to the Planning Commission at the time the matter is discussed at a Planning Commission meeting. The other Commissioners may recommend that the member not participate in the discussion or voting on the matter. If contacted, the member should refer the individual or group to staff for assistance. Mail received at the City offices addressed to a regular or alternate member will be opened and, if concerning Commission business, will be copied and distributed to all regular and alternate members.

Upon being appointed and every January thereafter, each Planning Commission member shall complete a sworn written disclosure stating the Commissioner's outside employment, membership on boards, the ownership interests of the commissioner in any business, and all current and anticipated business dealings involving Sandy City. As soon as practicable following any change in: (1) employment, (2) ownership interest, (3) business dealings involving Sandy City, or (4) membership on a board, the Commissioner shall update the written disclosure.

Article 17: Conduct of Persons Before the Commission

The Commission may request or direct the removal of any person who disrupts a meeting to the extent that orderly conduct is seriously compromised.

Article 18: Severability

The provisions of these by-laws shall be severable; should any article or the application of such article of the Planning Commission by-laws be found to be invalid, it shall not affect any other provision of these by-laws, or the application in a different circumstance.

Article 19: Adoption, Amendment and Suspension of By-laws

The by-laws will generally be reviewed and adopted annually by the Commission. Amendment to the by-laws shall take place at a scheduled Commission meeting. A concurring vote of four members of the Commission shall be required in order to amend the bylaws. Amendments shall take effect at the next regularly scheduled meeting following a successful vote.

Provisions of these by-laws may be temporarily suspended upon a unanimous vote of the Commissioners present at a meeting, unless the provision is set by state law or Sandy City ordinance.

In the event of changes to state statutes or City ordinances affecting these by-laws, the by-laws shall be considered as amended on the effective date of the changes in the statutes or ordinances.

Article 20: Recusal

A Planning Commission member shall recuse himself/herself upon introduction of an agenda item under the following circumstances: (1) The Commissioner has a conflict of interest as defined in Article 16; (2) The Commissioner, or business entity in which the Commissioner owns a substantial interest, is the applicant for the agenda item; (3) The Commissioner is an employee of the applicant for the agenda item; (4) The business entity in which the Commissioner owns a substantial interest, has performed work on the agenda item as a contractor or consultant of the applicant; or (5) The Commissioner has personally performed work on the agenda item on his/her own behalf or as an employee of a contractor or consultant of the applicant. For purposes of this Article, “substantial interest” means the ownership, either legally or equitably, by an individual, his spouse, and his minor children, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity.

Upon recusal, the Commissioner shall leave the room and shall not participate in deliberation or voting on the agenda item, except that this does not prohibit the Commissioner from speaking as a private citizen in a public comment period or public

hearing. The Commissioner shall return to the room after the final vote on the item has been taken.

If any individual Planning Commissioner feels that his/her recusal is appropriate for an agenda item, the Planning Commissioner may recuse himself/herself by following this procedure. Verbal disclosure of the reason may be required by State or local laws or the provisions of these By-Laws.

Article 21: Effect of Compliance with By-Laws

Any failure to strictly comply with these By-Laws shall not create a cause of action against the City or any of its Commissions, Boards, officers or employees by any person, corporation or other entity, nor shall any action taken by the Planning Commission be in any way invalidated due to such lack of strict compliance. Failure to comply with the Act, LUDMA, or LDCSC shall have the effect as specifically stated therein.