

**PROVIDENCE CITY
Planning Commission Bylaws**

ARTICLE I - GENERAL PROVISIONS

1.1 Applicable State Statutes and Local Ordinances and Rules.

The Providence City Planning Commission, hereinafter referred to as the "Commission," shall be governed by state statutes and local ordinances and policies including the following:

- a. State statutes applying generally to public boards, members and officials, including but not limited to: Title 10, Chapter 3, Part 13 of the Utah Code dealing with disclosure requirements and Title 52, Chapter 4 of the Utah Code dealing with open and public meetings.
- b. State statutes governing the activities of Planning Commissions in relation to planning and zoning, including but not limited to: Title 10, Chapter 9a, Municipal Land Use Development and Management Act.
- c. The Zoning Regulations of Providence City as set forth in Title 10 of the Providence City Code.
- d. The Subdivision Regulations of Providence City as set forth in Title 11 of the Providence City Code.
- e. Boards and Commissions, Planning Commission as set forth in Title 2 Chapter 1 of the Providence City Code.
- f. The bylaws of the Providence City Planning Commission as set forth herein. NOTE: These bylaws are not adopted by Ordinance and do not have the force of law. They are advisory guidelines only. Consequently, should the Planning Commission waive or suspend (see Section 10.2 herein) or otherwise deviate from these bylaws during the course of a hearing/meeting, such deviation shall not be grounds for invalidating a hearing/meeting held during such hearing/meeting or any decisions made at such hearing/meeting.
- g. If these bylaws conflict with Federal, State, or City codes and/or ordinances, the federal, state, or City codes and/or ordinances shall prevail.

1.2 Requirement of Familiarity with State Statutes and Local Ordinances and Rules Affecting the Commission.

Upon taking office, all members of the Providence City Planning Commission shall familiarize themselves with the foregoing and, while in office, members shall maintain such knowledge, including knowledge of amendments and additions, and shall be strictly governed thereby in the conduct of Planning Commission affairs.

1.3 Rules of Commission to be Available in the Providence City Office.

An official copy of the rules of the Planning Commission, in current form, shall be available in the Providence City office as a public record. Additional copies shall be provided to members of the Commission and made available to the public upon request, but the official copy in the

Providence City office shall govern.

1.4 Location of the Providence City Office.

The office of the Providence City Planning Commission shall be located within the Providence City offices, 15 South Main, Providence, Utah, 84332.

ARTICLE II - MEMBERS

2.1 Number of Members, Appointment, Compensation, Etc.

The membership and appointment of the Planning Commission shall be governed by the provisions of the Utah Code and the provisions of Title 2 Chapter 1 of the Providence City Code.

2.2 Causes for Removal from Commission.

Causes for consideration of removal of members from the Providence City Planning Commission by recommendation of the Mayor to the City Council may include malfeasance, misfeasance, or nonfeasance generally, and in particular:

- a. Failure to maintain reasonable familiarity with state statutes and local ordinances and rules affecting the Commission, or failure to be governed thereby, as required by Section 1.2, above.
- b. Failure to disclose conflict of interest for purposes of disqualification when a member has a personal or monetary interest in the matter involved, or will be directly affected by a decision of the Commission, which the City Council deems to be in violation of the provisions of the Utah Code.
- c. Providence City Code 2-1-1B. "Members may be removed with or without cause by a majority vote of the City Council."

2.3 Resignations, Generally, and by Absence.

When members propose to resign, if reasonably feasible, they shall give notice of their intent to the Mayor and to the City Council of Providence City and make the date of resignation effective in such a manner as to allow time for appointment of replacements.

Failure to attend three consecutive regular meetings, or three of any seven consecutive meetings, without the recorded consent of the Chair, shall be construed by the Chair as grounds for resignation from the Commission by absence. The Chair may then recommend removal of the member to the City Council.

2.4 Vacation of Office.

When a member dies, resigns, or is removed (including resignation by absence), the Mayor shall promptly indicate to the City Council that a vacancy exists. When a member becomes incapacitated for office permanently or for what appears likely to be a protracted period, or moves from the jurisdiction, or becomes, for any other reason, no longer qualified for office and fails to resign, the Chair shall cause any necessary investigation to be made and shall present the facts to the Mayor and to the City Council who may declare the office vacant and appoint a replacement.

ARTICLE III - OFFICERS, COMMITTEES, STAFF, DUTIES

3.1 Regular Election of Chair, Vice Chair; Provisions for Contingencies; Continuation of Service Until Successors Take Office.

Annually, as the last item of business at the regular meeting of the Commission in the month of July, the Commission shall elect a Chair and Vice Chair. If such regular hearing/meeting is canceled or a quorum is lacking, the election shall be held within 36 days thereafter at a regular or special meeting. If no quorum can be obtained within 36 days, the election shall be held at a regular or special meeting held as soon thereafter as a quorum can be obtained, provided that if no such election is held within 60 days of the dates when generally required, the Mayor shall notify the City Council, who shall appoint a Chair and Vice Chair to serve until the next regular election in the month of July. The prior Chair and Vice Chair shall remain in office until successors take office at the next regular or special meeting following an election or appointment. A chair may not succeed him or herself as chair of the Commission.

3.2 Succession of Vice Chair to Office of Chair; Special Elections.

If the Chair resigns office or no longer becomes a member of the Commission, the Vice Chair shall succeed in office for the remainder of the term. If the Vice Chair resigns office, becomes no longer a member of the Commission, or succeeds to the Chair's office, a special election shall be held at the next regular meeting of the Commission to select a Vice Chair to complete the term, provided that if such regular meeting is one immediately preceding the regular election, the Commission may permit the office of Vice Chair to remain vacant until it is filled in the regular election.

3.3 Duties of Chair and Vice Chair; Appointment of Temporary Chair to Preside at Hearings/Meetings:

If present and able, the Chair shall preside at all hearings/meetings. If the Chair is absent or unable to preside, the Vice Chair shall preside. If both are absent or unable to preside, the members present shall appoint a Temporary Chair to preside. In accordance with these and other applicable rules, the presiding officer shall decide all points of procedure and order, unless otherwise directed by vote of a majority of the members in attendance. When necessary, in deciding points of order, Roberts Rules of Order, newly revised, shall be used by the Chair as a point of reference.

The Chair shall maintain order and decorum, and to that end, may order removal of disorderly or disruptive person(s) in accordance with UCA 10-3-608 by an officer of the Cache County Sheriff's Department. In the event of an emergency, the Chair may order removal of person(s) without a vote of the Commission.

The Chair is a voting member of the Planning Commission and votes on all items.

3.4 Other Responsibilities and Duties of Chair; Delegation to Vice Chair.

The Chair shall have further duties and responsibilities as indicated below. The Chair may delegate duties generally to the Vice Chair, or may authorize the Vice Chair to perform specific duties during her/his absence or in case of his disability to perform necessary Commission functions in a timely manner. The Vice Chair shall perform all duties so delegated. In case of absence or incapacity of the Chair, on approval by a majority of the commission, the Vice Chair shall perform any or all duties of the Chair whether or not delegated.

3.5 Managerial Responsibilities.

Subject to these rules and further instructions from the Commission, the Chair shall direct the official business of the Commission, interface with the Mayor in the conduct and affairs of the Commission, request needed staff assistance from the Administrative Director or the City Council, and exercise general management direction of the affairs of the Commission.

3.6 Assignment of Commission Members to Inspection Duties.

The Chair may designate members of the Commission to make personal inspections of property when necessary for proper consideration of agenda items.

3.7 Administrative Director.

The Administrative Director to the Providence City Planning Commission shall be the Administrator or her/his designee.

3.8 Duties of Administrative Director.

The Administrative Director, acting under the general direction of the Mayor of Providence City, is responsible for providing staff services to the Commission within the provision of budget authority appropriated by the Providence City Council and within the framework of the provisions of Titles 2, 10, and 11 of the Providence City Code.

3.9 Appointment of Secretary.

The Secretary to the Commission shall be assigned by the Administrative Director from the staff of the Community Services Department.

3.10 Duties of Secretary.

Subject to applicable City Codes and the direction of the Administrative Director of the Planning Commission, the Secretary shall in general attend to all correspondence of the Commission; attend all hearings/meetings of the Commission (except when excused by the Administrative Director with temporary services arranged); and generally perform or supervise all clerical work of the Commission.

Under the direction of the City Recorder, send out or cause to be published all notices required; compile all required records; maintain the necessary schedules, minutes, files, and indexes.

ARTICLE IV - CONDUCT OF COMMISSION MEMBERS, STAFF

4.1 Representation of Applicants or Petitioners.

No member of the Commission, or of its staff, shall represent applicants or petitioners on matters on which the Commission is to make determinations or recommendations.

4.2 Conflict of Interest.

No member of the Commission shall participate in any case in which they have financial or

personal interest in the property or action concerned, or will be directly affected by the decision of the Commission, or has or believe they have any other conflict of interest as defined or regulated under the provisions of the Utah Code. No member of the staff of the Commission or of any agency serving the Commission shall prepare or present arguments or reports, or attempt to influence the decisions of the Commission, in any case in which he has similar interests and which would constitute a violation of the above-referenced Utah State statutes.

4.3 Disqualification on Grounds of Influence Other Than at Public Hearing/Meeting.

Commission members may be disqualified from voting whenever any applicant, or their agent, has sought to influence the vote of the member on their application or petition, other than in the public hearing/meeting, through an “ex-parte contact.”

4.4 Expression of Bias, Prejudice, or Individual Opinion Prior to Hearing and Determination.

Commission members may seek information from other Commission members, Counsel to the Commission, staff serving the Commission, or the staff of other departments or agencies advising the Commission; but no member shall express any bias, prejudice, or individual opinion on proper judgment of the case prior to its hearing and determination. Violation of this rule shall be deemed to constitute malfeasance and be grounds for dismissal from the Commission.

4.5 Commission Members Not to Vote Unless Present at Meeting.

No Commission member shall vote on any matter unless such member is present, either in person or by electronic connection, at the meeting when a vote is taken.

4.6 Inquiry Regarding Conflicts of Interest and Bias.

It shall be the responsibility of the Chair, Vice Chair or presiding officer to inquire regarding potential conflicts of interest, and issues of bias, regarding the pending agenda item(s), at the beginning of a public hearing or meeting.

4.7 Decorum.

Commission members shall avoid leaving their seats except during approved recesses of a public hearing/meeting. Members shall avoid conversation that is not plainly audible to all present in the hearing/meeting room.

ARTICLE V - HEARINGS/MEETINGS, GENERALLY

5.1 Regular Meetings.

Regular meetings of the Commission shall be held at 6:00 p.m. in the City Council room, Providence City offices, on the second and fourth Wednesday of each month; provided that such meetings may be held at any other convenient place or date if directed by the Chair, after public notice is given in compliance with the Utah Code, and upon findings that such other location would serve public convenience or necessity.

5.2 Study Meetings.

Study meetings of the Commission may be held as part of the regularly scheduled meetings or as are deemed appropriate by the Chair, or Administrative Director, provided public notice of the

time and place of the meeting is provided in compliance with the Utah Code.

5.3 Special Meetings and Public Hearings:

Special meetings for any purpose may be held at the call of the Chair, the City Council, or the Administrative Director. Said meeting shall be called and scheduled by the Chair at the greatest convenience of the Commission. Notice of the time and place of any special hearing/meeting shall be given in conformance with the provisions of state statutes and local ordinances.

Call of a special meeting at a specified time and place and for specified purposes during a regular meeting of the Commission shall be notice thereof to members of the Commission in attendance at said regular meeting, but other members shall receive written, electronic, or telephonic notice of the special meeting.

Public Hearing(s) may be scheduled during a regular or special meeting. Noticing requirement shall be done in compliance with applicable City and/or State Codes.

5.4 Recess or Continuance.

Any regular or special hearing/meeting may be recessed or continued from day to day, or to the time of any previously announced regular or special hearing/meeting, and such recess or adjournment to a time and place certain shall not require additional public notice.

5.5 Cancellation.

If no business is scheduled before the Commission, or if it is apparent that a quorum of the Commission will not be available, any hearing/meeting may be canceled by the Chair by giving notice to all members before noon on the day of such hearing/meeting. The City Office will notify the Chairman or acting Chair.

5.6 Quorum.

A quorum of the Commission shall consist of at least three members or alternate members. In all cases where there are only three members present, all members must cast a vote upon any action on an application or petition requiring action. When only three members are present, a positive vote must be unanimous.

5.7 Agenda, Order of Business.

The Secretary, under direction of the Chair and the Administrative Director, shall prepare an agenda for each Commission meeting. Order of the business shall be as specified by the Chair.

5.8 Length of Hearings/Meetings.

At 9:00 p.m. the Planning Commission will finish the item presently being considered, no additional items will be heard after that time unless there is a motion by a member of the Commission to extend the meeting. All items remaining to be heard will be forwarded to the next regular agenda for consideration.

5.9 Time Control.

The Chair may, at any time, institute measures to control the time for debate on any issue. Care

should be taken to insure fairness in the hearing process. Those speaking in support and opposed should have substantially equal time. The chair may stop debate once he or she believes the issue has been adequately and fairly heard.

5.10 Electronic Meetings.

The Commission members may be allowed to attend any regular or special hearing/meeting by electronic connections as allowed by City and State Codes.

- a. At least two (2) members of the Commission must be present at the anchor site (unless specifically noted the anchor site is the Providence City Office building, 15 South Main, Providence UT).
- b. No more than (2) members of the Commission may attend by electronic connection.
- c. A Commission member desiring to attend by electronic connection must notify the Chair and/or the Administrative Director by noon the day of the meeting to allow for arrangement to be made for the electronic meeting.

ARTICLE VI - PROCEDURES AT HEARING/MEETING

6.1 Representation at Hearing/Meeting.

At the hearing/meeting, any person may appear or be represented by authorized agents or attorneys. Such agents or attorneys shall present competent evidence of the extent of their authorization if requested by any member of the Commission.

6.2 Public Hearing Procedure.

The public hearing procedure shall be made available to the public and/or be displayed in the room.

- a. The Chair, or such person as he may direct, describes the nature of the case and evidence available to the Commission, including a summary of staff reports (which shall include recommended findings of fact, conclusions of law and a recommended decision).
- b. The applicant, petitioner or authorized agent outlines the nature of the request and presents supporting evidence including pictures, graphics, or other audio/visual material.
- c. Persons neutral, or in opposition or support of the application or petition may provide testimony.
- d. Rebuttal by the applicant, petitioner or authorized agent who spoke in favor.
- e. Rebuttal by the City Staff or such person as the Chair may direct.
- f. Closure of public comment and discussion by the Commission. NOTE: After closure of public comment, the Commission may ask questions of staff. If questions raised during the Commission's discussion requires an answer by an applicant or other persons present at the hearing, the hearing may be reopened for this additional information to be presented and an opportunity for rebuttal provided. Also, the Chair may open and close

public comment without formal motions from the Planning Commission.

6.3 Conduct During Hearings/Meetings.

During the hearing/meeting, each side shall proceed without interruption by the other. All testimony, statements and pleadings shall be addressed to the Chair. There shall be no questioning or arguing between individuals in the audience.

Any member of the Commission, the Legal Counsel to the Commission, or the Commission staff, upon recognition by the Chair, may direct any questions to the applicant, witnesses, or any person speaking from the audience, to bring out pertinent facts. The Chair or the Commission members may call for pertinent facts from the staff or make appropriate comments pertinent to the case. No Commission member shall debate or argue with persons in the audience.

The Chair shall maintain order and decorum, and to that end, may order removal of disorderly or disruptive person(s) in accordance with UCA 10-3-608 by an officer of the Cache County Sheriff's Department. In the event of an emergency, the Chair may order removal of person(s) without a vote of the Commission.

ARTICLE VII - FINDINGS AND DECISIONS

7.1 Timing of Decisions.

After conclusion of the public hearing on any application or petition, the Commission shall examine the evidence before it in relation to findings required.

With due consideration to the length of the agenda, the nature of the case, the complexity of the evidence, and the findings required, the Chair may elect, subject to a vote of the majority of the Commission, one of the following alternatives:

- a. To proceed immediately to determination and decision on conclusion of the hearing in a particular case; or
- b. To defer determination and decision until later in the same meeting; or
- c. To defer determination and decision until a specified special or regular meeting of the Commission within the time limits specified by state statute or local ordinances.

7.2 Findings.

If a majority of the Commission members present concurs that the evidence supports favorable findings upon an application or petition before it, or that such findings could be made if conditions and safeguards are established, the decision shall be favorable to the applicant, provided that such conditions and safeguards as may be required for a favorable finding are specified in the decision. Such safeguards and requirements shall be binding upon the applicant or petitioner and her/his successor and interests.

If a majority of the quorum of the Commission members present concurs that the evidence does not support a favorable action or recommendation by the Commission, then findings shall be specified in the decision outlining those problems or deficiencies in the application or petition which warrant such action.

If the findings of fact and conclusions of law recommended by staff do not accurately reflect the Commission's decision, the Commission may amend such findings and conclusions at the hearing/meeting or may recess the hearing/meeting to a date and time certain to allow for preparation of revised findings and conclusions by staff.

7.3 Form and Procedure of Decisions.

All such decisions of the Commission shall be made at a public hearing/meeting by motion, made and seconded, and by a voice vote. The motion shall be in the form of findings of fact and shall state the reason for the findings by the Commission and a statement of any conditions or safeguards to be attached to the action. If there is any ambiguity on any vote or if the nature of the application or petition warrants, the Chair may conduct a roll call vote.

7.4 Notification.

Notice of the Commission decision shall be given to the applicant or petitioner and to other interested parties who have requested such notice, by the Secretary of the Commission as soon as reasonably possible after the decision is reached, but within ten (10) days. Such notice shall be given on a "Report of Action" form approved by the Commission and shall include a copy of the complete findings of fact and conclusions of law adopted by the Commission in reaching its decision.

7.5 Appeals. Appeals by applicant or affected party.

Appeals to administrative decisions are directed to the Appeal Authority.

Advisory recommendations of the Commission cannot be appealed as they will be heard by the City Council.

ARTICLE VIII - REQUEST TO WITHDRAW OR AMEND APPLICATIONS OR PETITIONS

8.1 Withdrawal.

Upon written request from the applicant, petitioner, or authorized agent, an application or petition may be withdrawn at any time before the Commission makes a decision in the case.

8.2 Amendment.

Applicants, petitioners, or their authorized agents may amend applications or petitions in any lawful manner on written request delivered to the Administrative Director or her/his or her agent not less than ten (10) days prior to the scheduled public hearing/meeting to assure that the amendment is properly evaluated and addressed in the staff report. Amendments received less than ten (10) days before the public hearing/meeting will not be evaluated and made part of the staff report. The staff shall orally report to the Commission at the public hearing/meeting the nature of any amendments received less than ten (10) days before the hearing/meeting. The Commission shall determine whether the nature of the amendment is such as to require referral for reexamination by Counsel or staff having made reports on the original application or petition.

If such referral is found necessary, the Commission may proceed with the hearing/meeting or may continue it to a time and place specified, but shall not decide the case until the Commission has received sufficient information and analysis to make a finding that the amendment would not create a substantial difference in the effect of the application or petition.

8.3 Deferrals and Continuances.

On its own motion, or at the request of applicants, petitioners, or their authorized agents, the Commission may defer the hearing/meeting of cases or provide for later continuance of cases on which hearings/meetings have begun. Such deferrals or continuances shall be permitted only for good cause, stated in the motion, and, unless time and place is stated, shall require new public notice. An applicant shall be allowed to request one continuance for good cause shown. If additional deferrals or continuances are at their request, new fees shall be paid by applicants or petitioners.

ARTICLE IX - AMENDING OR WAIVING RULES

9.1 Amending Bylaws.

These Bylaws may be amended by a majority vote of the Commission except where such amendment would be contrary to requirements or limitations set by Utah Code or Providence City Code. An amendment may be proposed at any regular meeting of the Commission. Prior to the meeting at which the amendment is to be voted upon, members shall be sent a copy of such proposed changes. All amendments to the bylaws must have City Council approval before taking affect.

9.2 Waiving or Suspending Rules.

A rule of procedure may be suspended or waived at any hearing/meeting by unanimous vote of Commission members present unless such rule is set by Utah Code or by the Providence City Code.