

**RULES OF PROCEDURE
WILMINGTON PLANNING COMMISSION**

SECTION I. GENERAL RULES

The Wilmington Planning Commission, hereinafter referred to as the Commission, shall be governed by the applicable terms of Chapter 160D of the General Statutes of North Carolina, by the terms of the Ordinance adopted on August 12, 1980, by the Wilmington City Council establishing said Commission, and by these rules. Commission members shall thoroughly familiarize themselves with these Rules of Procedure and said Ordinance.

All meetings of the Commission are subject to the N.C. Open Meetings Law.

In cases where the powers of the Commission are not clearly defined, the City Attorney shall be consulted for an interpretation.

The City Attorney is the legal advisor to the Commission and is responsible for retaining outside legal counsel, when necessary.

Any applicant may appear for himself/herself in a proceeding before the Commission or may appoint an agent in writing.

All hearings before the Commission shall follow the specific rules herein, and if a matter is not addressed, shall follow the provisions of Robert's Rules of Order.

These Rules shall apply to all hearings of the Commission.

SECTION II. OFFICERS AND DUTIES

In accordance with the Ordinance creating the Wilmington Planning Commission adopted on August 12, 1980, designating the Commission as a planning agency, the Commission shall discharge the duties set forth in said Ordinance.

All Commission members are subject to City policy regarding boards and commissions then in effect.

The Commission members shall thoroughly familiarize themselves with these Rules of Procedure.

All Commission members shall take an oath of office before beginning their duties.

No Commission member shall vote at a hearing unless he/she has attended the hearing on that matter.

Members of the Commission will not express individual opinions on the proper outcome of any hearing prior to the Commission's determination of that matter. All parties shall have the right to an unbiased and non-partisan panel. Commission members shall not participate in or vote on any matter in which they have an impermissible conflict. Commission members shall not vote on any advisory or legislative decision regarding a development regulation where the outcome of

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the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A commission member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

- A. **CHAIR.** A Chair shall be elected by a majority of the Commission members present. The term shall be for one year, and the Chair shall be eligible for re-election. The Chair shall call the meeting to order, announce the business before the Commission in the order in which it is to be acted upon, state and put to vote all questions which are regularly moved or necessarily arise in the course of the meeting, and announce the result of the vote.

The Chair shall also decide upon all points of order and procedure, subject to these rules, and can limit repetitive comments.

The Chair's signature authenticates the acts, orders, and procedures of the Commission in its entirety when such signature is required.

The Chair shall vote on all matters before the Commission and shall have no extraordinary voting powers in the case of a tie vote.

The Chair shall appoint any committees found necessary to investigate any matters before the Commission.

- B. **VICE-CHAIR.** A Vice-Chair shall be elected by the Commission from among its members in the same manner and for the same term as the Chair. The Vice-Chair shall serve as acting Chair in the absence of the Chair and, at such time, shall have the same powers and duties as the Chair.

- C. **SECRETARY.** The Planning and Development Department Director (or successor title of position or department) or his/her designee shall serve as Secretary to the Commission. The Secretary, subject to the direction of the Chair and the Commission, shall be responsible for keeping all records, shall be responsible for the conduct of all correspondence of the Commission, shall be responsible for the professional planning work of the Commission, and shall generally supervise the clerical work of the Commission. The Secretary shall be responsible for keeping, in a permanent volume, the minutes of every meeting of the Commission. These minutes shall show the record of all important facts pertaining to each meeting, every resolution acted upon by the Commission and all votes of members of the Commission upon any resolution or upon the final determination of any question, indicating the names of the members absent or failing to vote. The Secretary shall not be eligible to vote upon any matter.

- D. **ATTENDANCE:** Should a member fail to attend three (3) consecutive regular meetings of the Commission, and should there be no adequate excuse for such absences, the Chair, with the concurrence of a majority of the entire Commission, shall recommend to the appropriate authority that a vacancy be declared and that the vacant position be filled.

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SECTION III. PROCEDURES FOR FILING APPLICATIONS

In consideration of applications of all matters to be forwarded with a recommendation to the City Council, the Commission shall be governed by the following rules:

- A. **Amendment Applications**: All applications for amendments to the Land Development Code text and/or map must be filed in proper form with the Planning and Development Department (or its successor department). An application shall be accompanied by a fee in accordance with the City's adopted fee schedule.
- B. **Other Matters Requiring a Legislative Hearing**: All other applications concerning matters for which the General Statutes of North Carolina require the City Council to hold legislative hearing, shall be submitted to the Planning and Development Department (or its successor department) at least thirty (30) working days prior to the date at which the meeting is to be held.

SECTION IV. MEETINGS

- A. **REGULAR MEETINGS**: Regular meetings of the Commission shall be held at 6:00 p.m. on the first Wednesday of each month.
- B. **SPECIAL MEETINGS**: Special meetings of the Commission may be called at any time by the Chair on their own motion, or upon written or oral request from at least three (3) members or the Commission; provided notice is given in accordance with N.C.G.S. Chapter 143, Article 33C.
- C. **CANCELLATION OF MEETINGS**: Whenever there is no pending business before the Commission, or whenever the Chair is notified by the Secretary that a quorum will not be present, the Secretary may dispense with a regular meeting by giving written or oral notice to all members not less than twenty-four (24) hours prior to the time set for the meeting and having a notice of cancellation posted at the meeting place declaring such.
- D. **QUORUM**: A quorum shall consist of four (4) members. Once a quorum has been established for a meeting, it shall not be lost if a member cannot consider an item due to a conflict of interest, provided the member remains present at the meeting. An applicant may request a continuance to the next regular meeting should the voting members be three (3) or less, and the Commission shall grant the continuance. No action shall be taken by the Commission without a quorum present.
- E. **CONDUCT OF MEETINGS**: All meetings shall be open to the public and no executive or secret sessions shall be permitted at any time. The order of business at regular meetings shall be as follows:
 - (1) Call to order.
 - (2) Approval of minutes of previous meeting.

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- (3) Unfinished business.
- (4) New business.
- (5) Items brought by the Chairman.
- (6) Items brought by the Secretary.
- (7) Adjournment.

Every person attending and appearing before the Planning Commission shall abide by the order and direction of the Chair. Discourteous, disorderly, or contemptuous conduct by a party may be cause for the immediate continuance of the matter at hand until the next regular meeting of the Commission.

All matters requiring Commission action shall be presented to the Commission by the Planning staff and the person(s) seeking such action and/or his/her agent or representative (hereinafter referred to as the “applicant”).

The applicant shall be heard following the presentation of staff. For matters requiring public hearing, the Chair shall open the legislative hearing and then those in favor of the action shall be heard first, followed by those in opposition. To maintain an orderly meeting, all presentations shall proceed without interruption, unless the Commission desires to intervene with questions or comments.

All groups, organizations, neighborhoods, or similar associations shall appoint one spokesperson to present their concerns or points of view to the Commission on each agenda item.

Any relevant presentation shall be limited to ten (10) minutes, whether for or against a request. Five (5) minutes shall be allowed for rebuttal to all initial presenters. The Chair may rule on the relevancy of any presentation to the agenda item being reviewed.

The Planning Commission, by majority vote of those present, may suspend the time limitations specified herein.

For matters requiring a public hearing, once all individuals both for and against the action have been heard, the Chair will close the hearing and the Commission will discuss the action, including any questions by Commission members for staff or the applicant, and then the Commission will take action on the matter.

F. COMMISSION ACTION: The Commission shall take one of the following actions on all agenda items except those informational items presented by the Chair and/or Secretary:

Approval - A favorable recommendation rendered by the Commission to a request. The petitioner will be informed of the date City Council will address the request, and the Commission shall forward its favorable recommendations to City Council on or before the date of the applicable Council meeting.

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Conditional District Map Amendment – may be approved conditionally by the Commission, meaning the Commission favors the request subject to specified conditions attached to the request, subject to approval by the property owner.

Denial - An unfavorable recommendation rendered by the Commission to a request. The Commission must state the reason(s) for said denial and inform the petitioner of his/her right to appeal that recommendation to the City Council.

Continuance - A specified period for delay of action on a request adopted by the Commission. The Commission must state the reason(s) for said continuance and by its action charge the Planning Staff with placing the request on the agenda for the specified meeting. The Commission will only hear a motion for continuance if the applicant is present and may only grant a continuance upon a showing of good cause.

Withdrawal - Acceptance of the petitioner’s request to withdraw consideration of a request prior to Commission review. The applicant must be present to request a withdrawal request.

Advancement - Hearing an agenda item earlier or later in the meeting than it is originally scheduled if good cause is shown by either petitioner, Planning Staff, or other interested parties for such an advancement. Action on an advanced item shall be in the form of the above-mentioned actions.

A simple majority vote of those members present shall be sufficient to decide matters before the Commission. A tie vote of those members present shall cause the motion in question to fail.

SECTION V. PUBLIC NOTICE

Public notice shall be given for all Commission meetings in accordance with N.C.G.S. Chapter 143, Article 33C. All regular meetings of the Planning Commission shall be advertised in a newspaper having general circulation in New Hanover County at least three (3) days, but not more than ten (10) days preceding the meeting.

SECTION VI. AMENDMENTS

Within the limits allowed by law, these rules may be amended at any time by the affirmative vote of not less than four (4) members of the Commission, provided that all members are provided a copy of the proposed amendment at least three (3) days prior to the date of the meeting at which such action is to be taken. Incorporation of any amendment to these rules must be approved by the City Council.

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By majority vote on November 4, 2021, the City of Wilmington Planning Commission hereby recommends that the foregoing rules and regulations should be adopted by the Wilmington City Council.

Secretary
Wilmington Planning Commission

Date

The foregoing rules and regulations are hereby adopted by the Wilmington City Council on November 16, 2021 with an effective date of December 1, 2021. The original copy of said rules shall be filed with the City Clerk, with copies provided to the Secretary for the Wilmington Planning Commission and to the City Attorney's Office.

City Clerk

Date

Amendment History:

Adopted October 1, 1980
Revised and updated through 5/22/90
Revised and updated through 5/5/99
Revised and updated through 10/6/99
Revised and updated through 6/6/00
Revised and updated through 6/18/02
Revised and updated through 6/7/17
Revised and updated through 6/15/21
Revised and updated through 11/16/21 (Effective 12/1/21)