

Chapter  
4

## **PLANNING COMMISSION**

The regulations set forth in this chapter describe the Planning Commission and its membership function and responsibilities in administering and interpreting the Elwood City Land Management and Development Code.

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## Chapter 4

### PLANNING COMMISSION

#### **4.1 ESTABLISHMENT OF THE PLANNING COMMISSION**

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There is created a Planning Commission to be composed of five voting members and may appoint one alternate member. Members of the Planning Commission shall be appointed by the Mayor with the advice and consent of the City Council. The alternate members shall be utilized as voting members when needed to maintain a quorum. Appointments to the Planning Commission shall be made on a basis which fairly represents the interests of all residents of Elwood City. Members and alternate members will be given copies of the Elwood City General Plan and the Elwood City Land Management and Development Code.

The City Council may fix per diem compensation for the members and alternate members of the Planning Commission, based on necessary and reasonable expenses and on meetings actually attended.

#### **4.2 TERMS AND ELIGIBILITY OF MEMBERS**

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The Planning Commission members shall consist of residents who own a primary residence and/or property within Elwood City and shall have resided within the City for at least ninety (90) days prior to being appointed. Members are deemed to have resigned when they move their residences outside the City limits. At least three of the five members shall hold no other public office or position within Elwood City.

Members of the Planning Commission shall serve terms of five years. Members shall be appointed every year in December of the year of the expiration. The terms shall be staggered so that one member shall be appointed each year. Terms may expire on the last day of the year, but members on the Planning Commission shall continue to serve until their successors are appointed and qualified. The Mayor shall appoint a new Planning Commission member to fill vacancies that might arise and such appointments shall be to the end of the vacating member's term.

Alternate members of the Planning Commission shall serve a three year term. Terms will end in December of the year of expiration, but the members shall continue to serve until their successors are appointed and qualified.

Minutes of the monthly meetings will be given to the alternate member so that they can be aware of the actions of the Planning Commission. New members and alternate member will be required to receive training from the Planning Commission chairperson. Alternate member shall attend one meeting after being appointed, and thereafter will need only to attend commission meetings on request. Regular members of the Planning Commission should give at least 48 hour notice to the alternate members, when needed.

The Planning Commission existing at the time of passage of this ordinance shall continue to serve, and the terms of its members shall be fixed by the City Council in such a manner as to comply with the above provision of staggering terms of service.

There is no limit to the number of terms a member may serve. Upon a majority vote in a public meeting, the City Council may remove from office any member or alternate member of the Planning Commission for non-performance of duty or misconduct. Non excused absence from three consecutive regular Planning Commission meetings or a total of four meetings in a calendar year shall constitute non-performance of duty. Misconduct is failure to follow the Ethics Act and/or failure to follow state and local laws.

### **4.3 POWERS AND DUTIES**

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The Planning Commission shall have authority to:

1. Prepare and recommend a general plan and amendments to the general plan to the City Council;
2. Prepare and recommend to the City Council, land codes and maps, which conform to the provisions of the general plan adopted by the City Council;
3. Administer provisions of the land codes, where specifically provided for in the land code ordinance adopted by the City Council;
  - a. Review and consider applications for all subdivisions and recommend Final Plat approval, denial, or approval with conditions to the City Council.
  - b. Conduct such public hearings as required by law or as may be deemed necessary by the Planning Commission.
  - c. Hear and decide any matters that the City Council designates, including:
    - i. the approval or denial of Conditional Use permits
    - ii. determine the existence, expansion, modification, etc. of non-conforming uses and non-complying structures
    - iii. Official classification, sketch plat and preliminary plat approval of subdivisions
4. Prepare and recommend to the City Council, subdivision regulations and amendments to those regulations, which conform to the provisions of the general plan adopted by the City Council;
5. Prepare an application process that:
  - a. may include a designation of routine land use matters that, upon application and proper notice, will receive streamlined review and action if the application is uncontested; and
  - b. shall protect the right of each:
    - i. Applicant and third party to require formal consideration of any application by a land use authority;
    - ii. Applicant, adversely affected party, or municipal officer or employee to appeal a land use authority's decision to a separate appeal authority; and
    - iii. Participant to be heard in each public hearing on a contested application.

6. Employ experts and a staff as may be reasonable and necessary for carrying out the duties of the Planning Commission, but not in excess of such sums as may be appropriated by the City Council and/or which may be placed at the disposal of the Planning Commission by gift or otherwise.
7. Enter upon any land, public or private, at reasonable times to make examinations or surveys pertinent to the preparation of its general plan; or preparation of its land use ordinances.
8. Advise on Annexation Applications
9. Advise on Annexation Policy Plan
10. Advise on Amendments to platted streets
11. Recommend subdivision plat changes
12. Exercise other powers that are necessary to enable it to perform its function pursuant to Title 10, Utah Code Annotated or that are delegated to it by the City Council.

#### **4.4 ORGANIZATION & RULES of PROCEDURE**

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The Planning Commission shall adopt such rules that it deems necessary for the conduct of its proceedings. Meetings of the Commission shall be held at the call of the Chairperson or two (2) commission members and at such times as the Planning Commission may determine. The Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall immediately be filed in the office of the city recorder and shall be a public record. All meetings shall be recorded and shall be kept as required by Utah Code.

The Planning Commission at their regular meeting in January of each year shall elect from among its members a Chairperson and Vice Chairperson, whose terms shall be one year. Any member may be re-elected for an additional term as Chairperson or Vice Chairperson. There is no limit to the number of terms a member may serve as Chairperson or Vice Chairperson. If for any reason the position of Chairperson or Vice Chairperson is vacated before the elected member's term has expired, the Planning Commission shall elect from among its members a successor, who shall serve for the remainder of the unexpired term. The Chair will direct or may designate a commission member, usually the Vice Chair, to direct commission meetings. The Chair or designee may participate in any discussion but shall have no vote except in case of a tie vote by the members of the Commission. The chair must vote if only three voting Planning Commission members are present (including the chair) at any given meeting.

The Planning Commission may appoint a secretary to keep minutes, post agendas of meetings and/or hearings and further assist the Commission as needed. The Secretary may be paid for services rendered as agreed upon by the City Council.

#### 4.4.1 *MEETINGS & Procedures*

The Planning Commission shall meet as necessary and at such times as the Planning Commission may determine. Regular scheduled meetings shall be held at the Elwood City Hall or other places if circumstances require it. Meetings shall be held in accordance with the provisions of Title 52, chapter 4, Utah Code as amended, or any successor statute enacted in its place. The commission will be familiar with and abide by the rules set forth in the Municipal Officers' and Employees' Ethics Act Utah Code 10-3-1301 et seq.

Agenda: An agenda shall be prepared, posted and followed;

Any item to be considered must be communicated to the Planning Commission Secretary at least forty-eight (48) hours prior to a scheduled meeting along with any supporting materials to be considered for placement on the agenda;

Agenda items shall be restricted to those matters approved by the Chairperson or two members of the planning commission;

All items to be considered and voted on must be on the agenda;

Matters not on the agenda that are raised during a meeting may be discussed but no decision may be called for or voted on; Meeting agendas must be posted at least 24 hours prior to the meeting at the building where the meeting is to be held, on the Utah Public Notice Website or three public locations.

Opening Ceremony: Planning Commission meetings may start with the Pledge of Allegiance, an opening prayer, or other ceremony.

Conducting the Meeting: The Chairperson ( or his/her designee; generally the Vice Chairperson) will conduct Commission meetings; The Chairperson is to maintain control of the meeting and to expect that those in attendance conduct themselves in an orderly fashion; The Chairperson has the right to ask someone to leave the meeting, or to have someone removed for disorderly conduct.

Procedure – Motions: Any Commissioner, except the Chairperson, may make or second a motion; The minutes of the meeting should reflect findings or reasons for the motion; Motions should be clear and brief as possible; A motion to table an agenda item for further study should be accompanied by a specific reason for continuing the matter and whenever possible, a specific date to rehear the matter should be scheduled; A motion for a recess shall be permitted for a specific purpose while also stipulating a specific time to reconvene the meeting, the time to reconvene must be during the meeting in which the motion to recess was made; A motion to adjourn the meeting is made at the end of each Planning Commission meeting, unless adjourning is on the agenda then the meeting can be adjourned without a motion, a second is required and a voted taken before the meeting is adjourned.

Conflict of Interest: If the member feels he/she must abstain from voting on a matter, then he/she shall not participate in the discussion/deliberation unless requested by another member of the Planning Commission.

Citizen Input: The Chairperson may allow for a time at the end of the agenda or during the meeting for citizen input or comment on items not on the agenda; Time may be limited to no more than five (5) minutes per topic.

The Zoning Administrator shall attend the Planning Commission meetings as well as assist and advise the commission when necessary.

**4.4.2 QUORUM**

Three (3) members of the Planning Commission shall constitute a quorum. An alternate member may be counted as part of the membership for a quorum. A majority of the voting members present at a meeting at which a quorum is present shall be required for any action. No less than three (3) yes votes are required for passage of any action.

**4.5 CONFORMANCE WITH GENERAL PLAN**

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Upon adoption of the general plan by the City Council, thereafter, no street, park or other public way, ground, place or space: no public building or structure; and no public utility, whether publicly or privately owned, shall be constructed or authorized until and unless the location and extent thereof shall conform to the general plan, and shall have been submitted to and approved by the Planning Commission. In the case of disapproval, the Planning Commission shall communicate its reasons to the City Council, which may, by a vote of not less than a majority of its entire membership, overrule such disapproval.

The widening, narrowing, extension, relocation, removal, vacation, abandonment, change of use, acceptance, acquisition, sale, or lease of any land, street or public way, or any property or structure shall be subject to similar submission to, and approval by, the Planning Commission. Disapproval may be similarly overruled. Failure by the Planning Commission to act to: approve; approve subject to conditions; disapprove; or table for further consideration within sixty (60) calendar days from and after receipt of complete official submission shall constitute approval.

**4.6 CONFLICTS WITHIN THE CODE**

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There are times the Land Management and Development Code is in the process of being updated and all updates cannot be completed throughout the entire Code at the same time. Efforts are being made to insure that this code is readable, understandable, and contains as few defects as possible. If however, any conflicts, defects, inconsistencies or ambiguities are found within different sections and/or chapters of this code, the Planning Commission shall follow the section or wording that is most recent or in compliance with state laws. If there are still conflicts, defects or inconsistencies the wording more restrictive, stringent or of a higher standard as defined or interpreted by the Planning Commission shall be followed.