

RULES OF CONDUCT OF BUSINESS BY THE ENVIRONMENTAL PLANNING COMMISSION

A. ORGANIZATION AND MEETINGS:*

1. Annually at the first public meeting in January, or more frequently at the pleasure of the Environmental Planning Commission (hereafter EPC), the EPC members present shall elect by majority vote a chair, vice-chair, and any other officers that seem appropriate to the EPC. Should a vacancy in any of these positions occur between regular elections, a special election shall be held at the next EPC meeting to fill the office for the remainder of the term.
2. Regular public hearings on current land use applications shall be on the second Thursday of each month. In the event such a day is a public holiday, the hearing shall be exactly one week later. Special meetings, including hearings, may be scheduled by the EPC Chair at other times when necessary provided that notice is given. Unless otherwise posted, meetings shall be in the Plaza del Sol Hearing Room, Lower Level, 600 2nd Street NW.
3. Notice for all meetings of the EPC (including special meetings and public hearings) shall comply with applicable notification requirements specified in the Comprehensive City Zoning Code, including publication of notice 15 days or more prior to the meeting. Continuances and deferrals that are approved by the EPC for a specific hearing date do not require re-advertisement or additional notice.
4. Five members of the EPC shall constitute a quorum for the transaction of business. Whenever a quorum is not present, no action shall be taken except to adjourn the meeting to another time.
5. The EPC has regular study sessions for the purpose of receiving information, hearing presentations, and discussion information one week before the regular public hearing. Also, the Chair may from time to time call special study sessions. No official action shall be taken at study sessions. Presentation of information by staff or discussion relating to any application that is non-legislative in nature shall be recorded and such record shall be made available to interested parties; public comment and discussion is not allowed. Study sessions shall be open to the public and notice shall be provided as required for EPC meetings.
6. The Chair shall preside at all meetings of the EPC except that the Vice-chair shall preside when the EPC is hearing an appeal. In the event of the absence or disability of the Chair, the Vice-chair shall preside; in the event of the absence or disability of the Chair and Vice-chair, a Chair Pro Tempore shall be elected by the EPC members present.
7. The Planning Director shall appoint a staff secretary to receive pertinent exhibits and documents and to record minutes for the EPC.

* As used within these Rules, the term “meeting” may refer to a “hearing,” a type of meeting at which public testimony is taken and decisions are made by the EPC.

8. At any meeting, the EPC may approve minutes of its preceding meetings. Drafts of such minutes shall be submitted to EPC members at least one week in advance.
9. Any changes to the meeting agenda, barring emergencies or unusual circumstances, shall be announced at the beginning of each meeting and should be posted for the public. The agenda, as amended, shall be approved at the beginning of each meeting and shall be a part of the record of the meeting.

B. HEARING PROCEDURES:

1. Any party may appear on their own behalf or may be represented by an agent. In the absence of any personal appearance on behalf of an applicant, the EPC may proceed with such matter.
2. The EPC may continue or defer a matter to another hearing at the request of staff, an applicant or other interested party or when the EPC determines that additional information is necessary to render a decision. When the applicant or his agent is present and objects to continuation or deferral to another day, the affirmative vote of a simple majority of the EPC members present is required to continue or defer the hearing.
3. The EPC may accept and approve a consent agenda by majority vote. To qualify for placement on the consent agenda, an application shall be without known opposition. An application may be removed from the consent agenda for any reason by a member of the EPC present at the hearing.
4. Applications shall be considered in the order in which they appear on the approved agenda. An approved agenda may be changed at any time by the EPC upon good cause shown.
5. The order of considering an application shall generally be as follows:
 - (a) Planning staff presentation
 - (b) Applicant's presentation
 - (c) Testimony by other concerned parties
 - (d) Applicant's response
 - (e) Staff response
 - (f) Floor is closed
 - (g) Chair's summary of the issues (when appropriate)
 - (h) Comments by EPC members
 - (i) Motions including findings and any conditions that may be required

EPC members may ask clarifying questions and/or allow cross-examination at any time (see item 14). The Chair has the discretion to allow additional comment and response while the floor is open.

6. The Chair is responsible for managing the progress of meetings. At hearings, time limits on presentations and testimony are generally as follows:
 - 5 minutes for staff presentation
 - 10 minutes for the applicant's presentation
 - 2 minutes for each public speaker

Neighborhood groups and other parties are encouraged to select one or more spokespersons to express common viewpoints. The Chair shall determine appropriate time limits under such circumstances.

7. The Chair shall vote and may second a motion, but may not make motions.
8. After a staff report is distributed to the Planning Commission, withdrawal of an application requires EPC approval.
9. The EPC will vote, upon a motion made by a member, to approve or deny any matter brought before it. A majority vote by the EPC is required to approve any such motion, unless otherwise specified in these Rules. When approving a motion, the EPC will adopt findings of fact upon which it has based its decision, and may impose conditions on the approval of an application as may be appropriate under the circumstances. If any motion fails for lack of support, such motion dies. In the event of a tie vote on a motion to approve or deny an application, the application is denied. When a tie vote occurs, no findings will be adopted. A vote on a motion to deny must be supported by findings. As with a tie vote, the EPC's failure to approve a motion on an application constitutes denial of the application and no findings will be adopted.
10. The EPC shall not re-vote on any motion, unless one of the following occurs: (a) a member states immediately after the original vote that he/she had not understood the effects of the motion, or (b) the City Council returns a case to the EPC for rehearing and re-vote.
11. Only actual applications shall be presented to the EPC. Hypothetical or what-if scenarios are not permissible. The EPC shall not give advice on how it might rule in future cases or might have ruled in past cases.
12. All evidence presented to the EPC or Planning staff regarding an application shall be deposited with the Planning Department until such time as all administrative and judicial remedies are exhausted. Where the deposition of an original document creates an undue inconvenience for the depositor, copies of the original may be substituted in lieu thereof. A hard/printed copy of information presented electronically to the EPC shall be placed into the record/file at the time of presentation. If possible, an electronic copy of the information shall also be placed into the record/file at the time of presentation.
13. All written materials including petitions, legal analyses, and other documents should be submitted to the Planning Department at least 10 days prior to the EPC hearing, in time for full consideration by staff and presentation to the EPC at its Study Session. Except in extraordinary circumstances, the EPC will consider limited, clarifying written material only if it has been submitted to the EPC and any known opposing party at least 48 hours prior to the public hearing.
14. Cross examination shall be afforded to anyone questioning the veracity of submitted material or testimony to the EPC. Questions must be directly related to presented facts or opinion, and must be submitted to and asked through the EPC Chair.

C. RULES:

1. These rules shall control the conduct of business by the EPC, but no rule of the EPC may violate provisions of ordinances and resolutions adopted by the City Council.
 2. EPC members shall not engage in *ex parte* communication about any filed or prospective application with any person interested in such application. Any person, except city staff, who communicates outside a hearing with a Planning Commissioner concerning the merits of a filed request or a prospective request to amend the zoning map or approve a new or amended master
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development plan or site development plan (for subdivision or building permit) shall do so only by printed materials. Copies of said printed communications shall be submitted to the Planning Department in a manner consistent with item B.13 above. An EPC member who has engaged in *ex parte* communication shall recuse himself or herself from hearing the application. EPC members shall disclose any instance of attempted *ex parte* communication; however, any such attempt should not, in and of itself, be grounds for recusal.

3. Appeals heard by the EPC are quasi-judicial procedures that are open to the public, but are not public hearings. Only the following parties are allowed to speak to an appeal, in the following order and only for the allotted time:

Appellant:	15 minutes
Party Opponent (appellee):	20 minutes
Planning Staff:	5 minutes
Appellant:	5 minutes

The EPC shall adhere to the appeal provisions of the Zoning Code, including §14-16-4-4-(E)(2)(e), which reads as follows:

“Staff of the appellate body, other than employees of a city division which is the appellant or the appellee, may upon request of a member of the appellate body communicate with that member at any time and by any means; copies of any written materials shall be distributed to all parties. Any other person who communicates outside a hearing with a member of an appellate body concerning a pending filed appeal to the body shall do so only by printed materials and shall supply copies of said printed communications to the record, to any neighborhood association entitled to notice on the case, and to all parties; the copies shall be distributed at least five days before the next hearing on the appeal, and there shall be no communication after the five-day deadline until the public hearing.”

4. The EPC may impose reasonable time limits on presentation or testimony to the EPC. Such limits will allow interested parties adequate opportunity to express pertinent facts and opinions. Individual speakers may not cede their speaking time to others.
 5. These rules may be amended by the majority vote of EPC members at a public meeting, provided written notice of the proposed changes and their time of consideration is given to all EPC members at least one week in advance and the public is properly notified.
 6. The EPC Chair may request that repetitive or irrelevant information not be presented. Repetitive, irrelevant or otherwise inappropriate testimony may be stopped by the Chair.
 7. The Planning Director shall adopt standard requirements for submission of applications which detail the required information and/or materials. Incomplete submissions are grounds for deferral. Inaccurate, false or misleading information is grounds for denial.
 8. These rules may be suspended for the consideration of a given agenda item by a vote of three-fourths of the EPC members present.
 9. The Chair, subject to these rules, shall decide all points of procedure unless directed by a majority of the EPC in session at the time.
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10. All EPC members shall adhere to these rules. An EPC member can be removed temporarily or permanently for violation of these rules by an affirmative vote of three-fourths of the EPC membership.
11. Roberts Rules of Order apply in questions not covered by these rules.

END OF RULES

EPC GUIDELINES

(The following guidelines are not rules or requirements of the EPC; these guidelines are suggestions offered to help produce a constructive working environment.)

1. Members should attend EPC training conducted by Planning staff and/or others.
2. No member should express the views of an absent member.
3. Members should express reasons for votes where it may benefit the public, the parties, or the City Council.
4. EPC members should make every reasonable effort to attend EPC meetings and study sessions. Members should communicate anticipated absences to the EPC secretary with as much forewarning as possible.
5. The appearance of impropriety should be avoided. Members should recuse themselves from hearing a matter if a conflict of interest appears to exist. However, EPC members have a duty to hear cases presented to them and recusal should only occur for good reason.
6. Members who recuse themselves from hearing and voting on a non-legislative matter should not be present in the hearing room when the matter is heard.
7. When a neighborhood association or other organization presents an official position to the EPC, the association or organization should identify how the position was arrived at. The Neighborhood Association Recognition Ordinance (§14-8-2-5-(D)) specifies pertinent requirements for recognized neighborhood associations.

PASSED AND ADOPTED ON 10 DECEMBER 2009 BY A VOTE OF 7 FOR AND 2 AGAINST.

Laurie Moyer, Chair
Environmental Planning Commission

Date

