
BY - LAWS
OF
THE LENEXA PLANNING COMMISSION
AND
LENEXA BOARD OF ZONING APPEALS



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**ARTICLE ONE
Creation**

SECTION ONE: Name. There is hereby continued by the City Code of Lenexa, Kansas, Section 4-1-M-1, a City Planning Commission to be named THE LENEXA PLANNING COMMISSION. (hereinafter "Planning Commission".) Pursuant to Section 4-1-K-1 of the Lenexa City Code, the Lenexa Planning Commission is designated as the Lenexa Board of Zoning Appeals (hereinafter "BOZA"). It is intended that these by-laws shall govern both bodies. Both bodies shall hereinafter collectively be referred to as "Commission."

SECTION TWO: Membership. The Commission membership shall comply with the Lenexa City Code which specifies the number, method of appointment, and term of office.

**ARTICLE TWO
Purpose**

SECTION ONE: By-Laws. The purpose of these by-laws is to establish rules for the internal organization and procedures of operation of the Commission and for compliance with K.S.A. 12-741 *et seq.*

SECTION TWO: Commission. The function, powers, and duties of the Commission are as authorized by state law, K.S.A. 12-741 *et seq.*, and by applicable City ordinances, resolutions, and/or Code provisions. The Commission adopts its own rules and policies for procedure, consistent with its powers.

SECTION THREE: Duties. The specific duties of the Planning Commission and BOZA are outlined in the City Code.

**ARTICLE THREE
Organization**

SECTION ONE: Officers. The officers of the Commission shall be a chairperson, vice-chairperson, and secretary. The chairperson and vice-chairperson shall be elected by the Planning Commission at its regular meeting in March of each year or as soon thereafter as practicable by a majority of those in attendance. The term of office shall be one (1) year or until their successors have been elected. Both the chairperson and vice-chairperson may be re-elected. The officers elected by the Planning Commission shall also serve as

officers of the BOZA. The Director of Community Development or his/her designee shall serve as secretary to the Commission.

SECTION TWO: Chairperson. The chairperson shall preside at all meetings of the Commission unless the chairperson designates someone to preside in his/her stead. The chairperson shall appoint all committees. The chairperson shall perform all of the duties assigned to the office by law and by the Governing Body, and shall have such usual powers of supervision and management as pertain to the office of chairperson. In the event that the position of chairperson becomes vacant for any reason, the vice-chairperson shall assume the responsibilities of the chairperson for the remainder of the term.

SECTION THREE: Vice-Chairperson. The vice-chairperson shall act as chairperson in the absence of the chairperson. In the event the office of chairperson becomes vacant, the vice-chairperson shall succeed to that office for the unexpired term and the Commission shall elect a new vice-chairperson for the unexpired term.

SECTION FOUR: Secretary.

- A. Secretary. The Director of Community Development serves as the secretary of the Commission. This office is not a member of the Commission. The secretary shall send notices of all regular and special meetings to all members of the Commission. In addition, the secretary shall have, administrative responsibility for all books, papers, and records thereof, and attend to all correspondence of the Commission.
- B. Recording Secretary. This position may be held by a City employee or may be an individual who is under contract with the City to attend all regular and special meetings of the Commission. The recording secretary shall keep records of all regular and special meetings and shall transcribe minutes for placement in the Minute Book of the Commission.

SECTION FIVE: Attendance. Attendance shall be as prescribed in the Section 1-4-A-4 of the Lenexa City Code.

SECTION SIX: Staffing. The Commission shall be served by the Community Development Department. The Community Development Department shall provide professional and technical assistance to the Commission. Staff shall present recommendations to the Commission and forward both the staff recommendation and recommendation of the Commission to the Governing Body, when appropriate. The Community Development Department shall also provide professional and technical assistance to both the Governing Body and other boards, commissions, and agencies, as appropriate. The Community Development Department shall be the official custodial agency for minutes, records, files, and materials related to Commission business.

ARTICLE FOUR
Meetings

SECTION ONE: Regular Meetings. Regular meetings of the Commission shall be set annually and adopted by Resolution with a current schedule available from the Department of Community Development. Unless otherwise noted, the regular meetings shall be at Lenexa City Hall at 7 p.m. Meetings of the BOZA, if scheduled, shall take place on evenings of regularly scheduled Planning Commission meetings. Meetings shall adjourn by midnight, unless extended upon approval of a majority of the Commission members present. Items remaining on the agenda at the end of a meeting may be continued by the Commission until the next regular meeting or may be considered at a special meeting called in accordance with the provisions of Section Two below.

SECTION TWO: Special Meetings. Special meetings of the Commission shall be called by the chairperson, or in his/her absence, by the vice-chairperson, and held at any time or place fixed in the notice. Only items specified in the meeting notice may be acted upon at the special meeting. Notice may be made by telephone, mail or e-mail. The chairperson or, in his/her absence, the vice-chairperson shall call a special meeting of the Commission upon written request of a majority of the appointed members of the Commission. If the chairperson or, in his/her absence, the vice-chairperson shall fail to comply with such a request, the members so requesting may call such meeting provided they all sign the notice.

SECTION THREE: Quorum. A majority of the membership of the Commission, including the chairperson, shall be necessary to constitute a quorum for the transaction of business and the taking of official action.

SECTION FOUR: Voting.

- A. A favorable vote of five (5) members of the Commission shall be necessary to recommend the adoption of:
- a Comprehensive Plan adopted pursuant to K.S.A 12-747, a Capital Improvement Plan, or any amendment thereto;
 - zoning regulations adopted pursuant to K.S.A. 12-756; and
 - subdivision regulations adopted pursuant to K.S.A. 12-749.
- B. A favorable vote of a majority of members of the Commission present and voting shall be necessary for the adoption of:
- zoning regulation amendments (i.e.: rezonings) adopted pursuant to K.S.A. 12-757;
 - special use permits;
 - any amendments or changes in the By-Laws of the Commission;
 - the election of officers of the Commission;
 - to set time and place of regular meetings; and
 - all other actions.
- C. A favorable vote of the majority of the members of the BOZA present and voting shall be required for all official actions.

ARTICLE FIVE
Conduct of Meetings and Meeting Management

SECTION ONE: Rules of Order. This document shall govern the procedure of all meetings of the Commission so long as they are not inconsistent with the Laws of the State of Kansas, the Ordinances of the City of Lenexa, or the provisions of these by-Laws.

SECTION TWO: Right of Floor. The chairperson will recognize members of the Commission, staff or audience desiring to speak, and confine remarks to one subject under consideration.

SECTION THREE: City Attorney. The City Attorney or designee attends all meetings of the Commission and acts as the Commission's adviser on meeting conduct and management.

SECTION FOUR: Meetings to be Public (Open Meetings). All meetings at which a majority of the membership of the Commission is present are required to be open to the public. Written notice in the form of an agenda or weekly calendar specifying when and where meetings will be held may be distributed to any person requesting such notice pursuant to a list compiled and updated by the Community Development Department. Minutes of the meetings are open to public inspection.

SECTION FIVE: Executive Sessions. Executive sessions are closed to the public and are held in accordance with the provisions of the Kansas Open Meetings Act. A formal motion must be made, seconded and carried by a majority vote to recess into executive session. The duration of the executive session must be stated and discussion must be limited to the subjects identified in the motion. If necessary, additional motions must be made to extend executive session discussion. No binding action shall be taken in executive session. Subjects discussed during executive session should be kept confidential.

SECTION SIX: Public Hearings. The Commission shall hold public hearings when required by federal, state or municipal law. Public hearings are officially opened by the chairperson and closed by a motion to close a public hearing. After a motion to close a public hearing has been approved, additional testimony will not be taken. However, a member of the Commission may, at the discretion of the chairperson, ask a speaker for clarification on a point raised. A public hearing may be continued to a later meeting with a motion and majority vote without further published notice if at the time and place for which notice was originally given the presiding officer specifies the time and place where the hearing will reconvene.

If a public hearing is not required, the Commission may, at the discretion of the chairperson, entertain public comment from members of the community or individuals or their representatives who believe they will be affected by the Commission's action.

SECTION SEVEN: Appearance Before the Commission. Applicants or their representatives may appear before the Commission to present their views on an agenda item. Whenever a person or entity appears before the Commission, the chairperson shall, at his or her discretion, prescribe procedures for registration of speakers and require that each person come forth and state:

- A. Name;
- B. Address;
- C. Whether speaking as an individual or on behalf of a person or organization; and
- D. The name of the person or organization represented if speaking on their behalf.

The chairperson may also reasonably limit the length of all persons' presentations or comments to ensure the orderly conduct of Commission business; however, the decision of the chairperson to limit the length of a presentation or comment may be overridden by a majority of the Commission present.

Any person making personal, impertinent or slanderous remarks or becoming boisterous while addressing the Commission may be requested to leave immediately and barred from further audience before the Commission at that meeting.

SECTION EIGHT: Written, Electronic or Telephone Communication. Applicants or their authorized representatives or other interest parties may address the Commission in writing, telephone or via electronic communication regarding any agenda matters. If such communication regarding an agenda item is received by a Community Development staff member, copies of said relevant information, if provided in written form, will be distributed.

SECTION NINE: Computer Use During Meetings. Computers will be used during meetings only to access information pertinent to the current meeting. Members of the Commission shall not communicate with other members of the Commission, staff or third parties via electronic communication during meetings pertaining to business on the current agenda.

SECTION TEN: Record of Proceedings (Minutes) Approval of Minutes. All meetings shall be recorded and the recordings maintained for a period of two (2) years. Written minutes shall be kept indefinitely. The recording secretary shall present the transcribed minutes from the previous Commission meeting to the Commission for approval. Unless a member of the Commission requests a reading of the minutes, such minutes may be approved without reading, provided the members of the Commission have each previously been furnished a copy.

It is the policy of the Commission that only the members of the Commission have the authority to make revisions to the minutes subject to a majority vote of the Commission. However, members of the Commission having only typographical corrections to minutes are encouraged to provide such corrections to the recording secretary directly and need not wait to submit such corrections at a meeting.

SECTION ELEVEN: Preservation of Order; Meeting Order. The chairperson shall preserve the order and decorum and keep those in debate to the question under discussion. The order of business for Commission meetings will be as follows, unless otherwise amended as provided by these by-laws:

- A. Call to Order
- B. Roll Call
- C. Approval of Minutes
- D. Agenda Amendments
- E. Consent Agenda
- F. Regular Agenda
- G. Reports or Other Communication
- H. Adjournment.

SECTION TWELVE: Agenda.

- A. Agenda Availability. Agenda's for all regular meetings shall be available at the Community Development Office in the Lenexa City Hall at least three (3) calendar days prior to the meetings.
- B. Filing Deadlines. Filing deadlines for placement on the Commission's agenda shall be set by the Director of Community Development.
- C. Consent Agenda. Items that do not require a public hearing, notwithstanding preliminary plans and plats, may be placed on the consent agenda. Any item may be removed from the consent agenda at the request of the Commission, staff or the applicant.
- D. Agenda Amendments. Once the agenda has been provided to the Commission, any amendments to the agenda shall be made at the Planning Commission meeting.
- E. Change in Agenda Order. The order of the agenda may be amended at the discretion of the chairperson. The order of specific items on the agenda shall be at the discretion of the secretary.
- F. Items Not on the Agenda. The Commission may consider items not on the agenda of a regular meeting if a majority of the members of the Commission present vote to do so, and provided the item is in compliance with state law.

SECTION THIRTEEN: Staff Reports. Staff reports on all agenda items shall be prepared and provided to the members of the Commission at least three (3) calendar days prior to the regularly scheduled meeting. In the event that a special meeting is scheduled less than three (3) calendar days prior to such meeting time, staff reports on agenda items shall be prepared and provided as soon as practicable prior to such special meeting. Information that is unable to be electronically transferred will be provided in paper form or will be on file at the Community Development Office in the Lenexa City Hall at least three (3) calendar days prior to the regularly scheduled meeting or as soon as practicable prior to a special meeting.

Staff reports shall contain an analysis of the request and a recommendation from the professional staff.

SECTION FOURTEEN: Call to Order. The chairperson will call the meeting of the Commission to order. In the event both the chairperson and vice-chairperson are absent, the secretary will call to order the meeting to elect a temporary chairperson.

SECTION FIFTEEN: Discussion of Issues; Cross Communication. At the discretion of the chairperson, cross communication among and between members of the Commission, staff members and those in attendance at the Commission meetings is permitted, however, the chairperson may limit cross communication to ensure the orderly conduct of Commission business. The chairperson may require members of the Commission or staff member to gain the attention of the chairperson by raising their hand and being acknowledged. Questions and communication between opposing parties must be directed to the chairperson.

SECTION SIXTEEN: Motions. At the conclusion of presentations or any applicable public hearing, a member of the Commission may make a motion to recommend approval or denial of the proposition, to continue the proposition to a later date, or to table the item. Any stipulations relative to plans, development procedures, etc., should be included in a motion to approve. Upon receiving a second, the motion may be discussed and, upon a call for question or at the discretion of the chairperson, brought to a vote. If a motion is made to table an item, discussion must stop immediately and a vote to postpone the matter indefinitely or to a time and date certain must be taken.

A motion to amend, if necessary, must be voted on first. If an amendment passes, the vote is on the motion as amended, otherwise, as originally stated. The chairperson may not make or second motions, but he/she may vote on any and all motions to come before the Commission.

SECTION SEVENTEEN: Commission Action. The Commission shall take action on each item presented at the conclusion of discussion on the item. All votes shall be by acclamation unless otherwise provided herein. The chairperson, recording secretary, City Attorney or any member of the Commission may request a poll vote on any item. If a poll vote is requested, the recording secretary shall conduct the poll and tally the votes. All members, including the chairperson, shall be entitled to vote when present except that any member shall abstain from voting on any decision in which he may have a conflict of interest as discussed in Section 18.

If the item upon which the Commission action is taken is remanded by the Governing Body for reconsideration by the Commission, it shall be considered at the next regular meeting of the Commission after notice of the remand is received. If no action is taken on the remanded item at said meeting, the same recommendation will be deemed made and will be sent back to the Governing Body.

SECTION EIGHTEEN: Abstentions. No one may be compelled to vote, although members of the Commission do have a duty to vote to express their willingness to share in the responsibilities of decisions. If a member of the Commission desires not to vote, they may abstain when their vote is requested.

Members of the Commission must comply with the City's Code of Ethics. If a member of the Commission believes they have a conflict of interest under the City's Code of Ethics, the member shall abstain from action and participation, advise of the conflict and leave the room until discussion and action on the transaction is complete. If abstention of a member due to conflict of interest will eliminate a quorum, then the Commission shall continue the item to the next regular meeting. If there is a tie vote, an abstention shall be considered a denial.

If a member of the Commission wishes to abstain on an item listed on the consent agenda because of a conflict of interest, they must request removal of said item from the consent agenda and advise of the conflict, but may remain in the Council Chambers provided there is no discussion of the item. Removed items will be voted on as separate items by the remaining members of the Commission.

SECTION NINETEEN: Failure to Recommend. If there is a tie vote of the Commission on any item on which the Commission sits as a recommending body, such as a rezoning or text amendment, such tie vote shall be deemed to be a recommendation of disapproval and goes to the Governing Body with such recommendation. If the tie vote occurs on action which the Commission sits as a final decision maker, a tie vote defeats the motion. If no subsequent motion is made and approved after the tie vote, the request is deemed denied.

SECTION TWENTY: Revote on Same Item. The Commission shall only be entitled to revote on an item previously considered and voted upon in conformance with the requirements of this Section. A motion to reconsider may be made by any member of the Commission who voted on the prevailing side of an issue to ask that the issue be reconsidered. This motion must be made at the same meeting in which the original vote was taken, but shall not be debated until the next regular meeting of the Commission or a properly noticed special meeting called for that purpose.

Further, prior written notice of such reconsideration must be given to the applicant prior to the meeting at which the motion to reconsider will be debated and voted upon, and, in the case of items requiring a public hearing before the Commission, publication notice of such reconsideration must be given in the same manner required of the original item. If the motion to reconsider is made on an item upon which the Commission sits as a recommending body, the item shall not proceed to the Governing Body until after the motion for reconsideration has been voted upon.

SECTION TWENTY-ONE: Applicant Not in Attendance. If an applicant or their agent is not in attendance when their item is called, the item may be set over to the end of the agenda. If at the time the item is called again the applicant is still not present, the Commission may continue the case, or may approve or deny the proposition as it sees fit.

SECTION TWENTY-TWO: Incomplete Submittals. The Commission will not hear items that fail to meet City Code submission requirements.

SECTION TWENTY-THREE: Continuances. Any item may be continued upon request of the applicant or recommendation by staff or by vote of the Commission. The Commission shall continue items requiring a public hearing to a date certain. Other items may be tabled and recalled at the request of the applicant, staff, or Commission. A tabled item which fails to be recalled after six (6) months shall be considered withdrawn.

The applicant and staff are each entitled to one (1) continuance as a matter of right, and subsequent continuances only upon approval of a majority of the members of the Commission present. If subsequent continuances are not approved by the Commission, action must be taken by the Commission or the applicant must withdraw the item. An applicant for any item that has been continued more than two times must again comply with all applicable notice requirements for such item.

SECTION TWENTY-FOUR: Recess. At any point in the agenda, the chairperson may declare a short recess until a specified time.

ARTICLE SIX Miscellaneous

SECTION ONE: Ex Parte Communication. Ex parte communications are private communication, written, electronic or other by or with any Commissioner that is not subject to public review and the hearing request.

Any ex parte communication shall be disclosed at any meeting at the time the item is announced. The Commissioner receiving the communication shall disclose the full nature of the ex parte communication including the identity of the individual(s) participating in the communications and any information obtained through the communications.

Communications are not in violation of the ex parte disclosure requirements if they do not pertain to specific sites or properties, and/or if they solely involve general planning, procedural or policy issues.

SECTION TWO: Suspension of Rules. Any of these by-laws may be suspended by affirmative vote of a majority of the members of the Commission at a special or regular meeting at which a quorum is present.

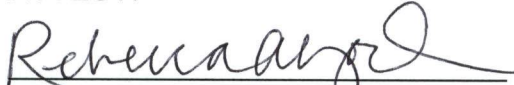
SECTION THREE: Amendment of Rules. These by-laws may be amended or repealed by affirmative vote of a majority of the members of the Commission present and voting at either a special or regular meeting.

APPROVED:



Chris Poss, Vice-Chairperson Presiding
as Chairperson Pursuant to Lenexa City
Code Section 4-1-M-7, Article 3, Section 3
of the By-Laws

ATTEST:



Rebecca Yocham, Secretary

APPROVED AS TO FORM:



Sean L. McLaughlin, Assistant City Attorney