



Town of Blue River

Planning & Zoning Commission Bylaws and Rules of Order

These Bylaws and Rules of Order are intended to govern the operations and actions of the Blue River Planning and Zoning Commission ("Planning Commission") in the performance of the Planning Commission's duties and responsibilities.

1.0 Creation of the Planning and Zoning Commission.

The Blue River Planning and Zoning Commission is established by Article VI of the Blue River Municipal Code in accordance with Article 23 of Title 31, C.R.S. The Planning Commission is primarily an advisory commission to the Board of Trustees with limited final decision-making responsibilities for zoning variances and certain major site planning applications. Article VI of the Municipal Code provides for the following regarding the Planning Commission:

- Duties and Responsibilities
- Commission Organization
- Selection of Chairperson
- Membership Requirements
- Appointment for Vacancies
- Removal from Appointment
- Meeting Location

2.0 Attendance, Preparation, and Participation.

- A. Attendance. Planning Commission members are required to attend all regular and special meetings of the Planning Commission unless excused from attendance in accordance with subsection (B) below. It is expected that Planning Commission meetings start on time and that Planning Commission members be punctual in attendance. In accordance with Section 2-6-50 of the Blue River Municipal Code, a member's failure to attend three (3) or more Commission meetings during a twelve-month period shall be reported to the Board of Trustees by the Commission Chairperson. Absences from meeting can constitute grounds for removal of a member.

- B. Excuse from Attendance. A Planning Commission member shall be excused from attendance by the Commission Chairperson where the member has an unforeseeable or unavoidable situation or circumstance that prevents attendance, such as but not limited to, emergency, illness, vacation scheduled well in advance of a meeting, or last-minute familial or employment obligation; and
- (i) The member notifies the Chairperson or Town Manager of the general reason for absence *prior to the start of the meeting*; or
 - (ii) The member notifies the Chairperson or Town Manager promptly following the meeting of the of the general reason for absence and the circumstances that did not permit the member to timely contact the Chairperson or the Manager of the need for an excuse from attendance.
- C. Record of Absences. The Chairperson, in consultation with the Town Manager, shall cause to be recorded all absences of members. Where an absence is excused, the record shall indicate the general reason justifying the excuse. The record of absences shall be provided to the Board of Trustees upon the Board's request.
- D. Preparation. Planning Commission members shall prepare in advance for all meetings and demonstrate familiarity with the agenda and the general matters to be decided. Members are expected to have reviewed the materials assembled by administrative staff for each meeting.
- E. Participation. Planning Commission members are expected to actively participate in discussion.

3.0 Meetings to be Public – Executive Sessions.

All meetings of the Planning Commission shall be conducted in accordance with the Colorado Open Meetings Law and shall be open to the public. Executive sessions may be held in accordance with Colorado Open Meetings Law and the Planning Commission is strongly encouraged to seek the advisement and consent of the Town Attorney prior to every executive session.

4.0 Quorum

A majority of the members of the Planning Commission in office shall constitute a quorum for the transaction of business at all Commission meetings where a quorum is required. In the absence of a quorum, a lesser number may adjourn any meeting to a later date or time. In the absence of all members, the Town Manager or Town Clerk may adjourn the meeting for not longer than five (5) weeks. In the event any meeting is adjourned to a later date, the Town Manager or Town Clerk shall prepare and cause to be delivered to each member of the Planning Commission a notice setting forth the date and hour to which such meeting has been adjourned.

5.0 Notice.

Meetings of the Planning Commission shall be conducted only following issuance of notice as required by applicable law. At a minimum, notice shall be provided as to the meeting date, time, and place (or means of electronic access if attendance is allowed virtually) and an agenda should be provided, if available.

Where required notice is not properly made for the meeting or for any agenda item during a meeting, the meeting or meeting agenda item shall be promptly continued upon announcement of the Chairperson without the taking of any additional evidence or testimony. Such announcement shall include the date, time and place of the continued meeting or meeting agenda item. If a future meeting date is unknown, the announcement shall state that the continued meeting will be re-noticed as to the date, time, and place.

6.0 Recording of Meetings.

All public meetings of the Planning Commission shall be recorded, and such recordings shall be maintained and made available upon request in accordance with the Colorado Open Records Act.

7.0 Parliamentary Rules.

The Planning Commission shall use *Bob's Rules of Order* (attached) as the primary parliamentary rule of order for all meetings of the Commission. The Planning Commission may by majority vote adopt another procedure or rule of order for the conduct of business. A process or procedure followed without objection by a member shall be deemed an implied approval of such process or procedure by the Commission.

8.0 Chairperson.

The Planning Commission shall select its own Chairperson and Vice Chairperson from among its members. The Chairperson or, in his or her absence, the Vice Chairperson shall be the presiding officer of all Commission meetings.

In the absence of both the Chairperson and the Vice Chairperson from a meeting, the members present shall appoint a member to serve as acting chairperson at the meeting. Upon the later attendance of an absent Chairperson or Vice Chairperson at a meeting, the acting chairperson shall relinquish the chair upon the introduction of the next agenda item.

The Planning Commission Chairperson shall be responsible for conducting the meetings of the Planning Commission in an orderly and democratic manner.

The Chairperson shall serve as the parliamentarian for all meetings and shall decide all questions of order subject to appeal by the Planning Commission. The Chairperson may confer with the Town Attorney or the Town Manager for direction and advice as to the proper parliamentary procedure.

9.0 General Meeting Procedure.

Meetings of the Planning Commission generally follow this format unless otherwise approved by the Chairperson with the consent of a majority of the Commission:

1. Chairperson calls the meeting to order.
2. Town Staff completes roll call and determines if a quorum exists. Town Staff may declare that appropriate notice was provided for the Commission meeting.
3. Chairperson explains rules and format that will guide the meeting and any public hearings. The general rules and format are as follows:
 - a. The Chairperson may establish a uniform time limit (typically not less than 3 minutes) for each person who will offer public comment if the Chairperson determines a time limit is necessary to conduct the meeting or hearing in an orderly and timely manner and to give all scheduled applicants and participants a fair and reasonable amount of time to be heard. If time limits on testimony are to be set, the Chairperson will advise the audience of the time limits at the start of the agenda item. Time limits shall not apply to the applicant or applicant representatives although the Chairperson may intercede or set limits if the applicant or applicant representatives are unduly repetitive in the delivery of information.
 - b. Individuals seeking to address the Planning Commission shall state their name and address unless the individual requests to forgo providing an address due to reason of personal privacy. Speakers are encouraged to present new information that has not previously been heard or entered into the record and to refrain from presenting cumulative or repetitive remarks or testimony.
 - c. For each agenda item, the Chairperson or Staff shall read the agenda item into the record and state if it the agenda item requires a public hearing.
 - (1) For agenda items not requiring a public hearing:
 - (i) Staff makes a general presentation for the agenda item.
 - (ii) With permission of the Chairperson, other persons in attendance including citizens or invited guests may provide comments to the Commission.
 - (iii) The Commission members and Chairperson may ask questions of the staff, citizens, or invited guests attending the meeting.
 - (iv) Where a decision is to be rendered by the Commission, the Chairperson shall open discussion and deliberation on the agenda item by the Commission members.
 - (v) The Chairperson shall ensure that any necessary decisions or conclusions are reached by the Commission for the agenda item.

- (2) For agenda items requiring a public hearing:
- (i) Staff makes a general presentation for the agenda item and reviews the staff report which includes a summary of the request, applicable regulations, and an analysis of the how the application meets or does not meet the required criteria. Other Town staff may be recognized and asked or given an opportunity to comment on the application. Staff shall tender any timely submitted written public comments into the record.
 - (ii) Commission members and the Chairperson may then ask staff questions.
 - (iii) The Chairperson then requests that the applicant make a presentation. If the applicant forgoes the opportunity to make a presentation, the Chairperson may ask the applicant if the applicant understands that the applicant bears the burden of proving all the elements necessary for approval of the application.
 - (iv) Commission members and the Chairperson may then ask the applicant questions.
 - (v) Chairperson opens the meeting to the public for questions or comments on the application or issue. The Chairperson must call on or recognize each speaker before speaking. The Chairperson may remind the public of the expected protocol and time limits for speaking, if warranted.
 - (vi) Commission members and the Chairperson may ask any speaker questions at any time during the public hearing. Time devoted to questions and responses shall not be included in any established time limits imposed on an individual speaker.
 - (vii) The Chairperson shall provide the applicant an opportunity to provide a rebuttal to the comments presented by the public. If, in the determination of the Chairperson or a majority of the Commission, the rebuttal offers new factual evidence of a substantive nature impacting the application, the Chairperson may at his/her discretion afford the public an opportunity to present comments limited only to the new factual information.
 - (viii) Chairperson closes the meeting to further public comment. The Chairperson may re-open the meeting at a later time for public comment at his/her discretion.

- (ix) Commission members deliberate. Members or the Chairperson may ask questions of staff, the applicant, or the public.
 - (x) Commission takes action per Section 5 below.
- (3) Adjourn the meeting.

10.0 Support for Planning Commission Decisions.

Every Planning Commission member is expected to abide by and act in accordance with decisions made by the majority of the Planning Commission notwithstanding the member's disagreement with the majority's decision. Members may publicly express that they voted in the minority or disagreed with the majority's decision, provided that the member respects and acknowledges the majority decision as binding on the Planning Commission and the member.

11.0 State Code of Ethics Applicable.

The *Code of Ethics* of the State of Colorado (Part 1, Article 18, of Title 24, C.R.S.) shall apply to Planning Commission members notwithstanding any conflicting or supplementing provisions of these *Bylaws and Rules of Order*.

12.0 Conflicts of Interest.

- A. Conflicts of Interest Prohibited. No Planning Commission member shall participate in, or take any official action regarding, any matter before the Commission in which the member knows or should have known that the member would have a conflict of interest.

A conflict of interest is defined as:

1. The member, or the member's relative by blood, marriage, or adoption, has an economic, financial, or pecuniary interest (monetary) that will be affected directly and substantially by the outcome of the matter pending before the Commission.
2. The member, or the member's relative by blood, marriage, or adoption, holds a private business interest in the matter pending before the Commission. A private business interest includes an employment or contractual relationship with persons or entities holding an interest in the matter pending before the Commission. In addition, a private business interest shall exist where the member is engaged as counsel, consultant, representative, or agent of an individual or business appearing before the Commission on a matter.
3. The member, or the member's relative by blood, marriage, or adoption, holds a personal or private interest in the matter pending before the Commission. A personal interest includes – from the viewpoint of a reasonable person – that the member likely holds a position, preference, or desire for a specific outcome in the matter pending before the Commission in order to serve the member's personal

interest as opposed to the interests of the general public. A personal or private interest shall not present a conflict where participation by the conflicted member is necessary to obtain a quorum and the member has, in consultation with the Town Attorney, successfully submitted a voluntary disclosure to the secretary of state in accordance with C.R.S. § 24-18-110.

4. The member, or the member's relative by blood, marriage, or adoption, owns property or resides at property located within 300 feet of a property that is the specific subject of consideration by the Commission. Distance shall be measured from property line to property line without regard to topography (i.e., on a two-dimensional map).
 5. For a *quasi-judicial* matter, the member publicly expressed a position, preference, or desire for a particular outcome associated with a matter pending before the Commission. Such expression includes soliciting other Commission members or soliciting members of the public to oppose or support a matter, joining in efforts or activities to support or oppose a matter under consideration by the Commission, or the appearance and advocacy on the matter before a board, commission, committee, or other body.
 6. For a *quasi-judicial* matter, the member elected to exercise his or her private First Amendment right as a citizen to advocate for or against a matter pending before the Commission.
 7. For a *quasi-judicial* matter, the member was absent from: (i) any part of the presentation of the evidence and testimony; or (ii) from a significant part of the Commission's discussion or consideration of the matter.
- B. Disclosure and Disqualification Required. A Commission member shall disclose any conflict of interest and disqualify him or herself from participating in the matter. Disqualification shall specially bar or preclude the member from discussing the matter with other Commission members, from sitting as an active or participating member during consideration of the matter, and from voting on the matter.
- C. Involuntary Disqualification by Commission. In the event that a majority of a quorum of the Planning Commission determines that a member holds a conflict of interest, the Commission may disqualify the member from a matter notwithstanding the conflicted member's failure to recognize or agree to the existence of a conflict of interest. In determining the required quorum and the vote for such involuntary disqualification, the member subject to disqualification shall not be included in the Commission's discussion and shall not vote of the question of disqualification.
- D. Disqualification by Town Attorney. The Town Attorney may determine, after consultation with a member, that the member holds a conflict of interest and is disqualified from a matter. The Town Attorney's determination is binding and not appealable by the Commission or by the conflicted member.

13.0 Ex Parte Communications – Quasi-judicial Matters.

- A. Ex parte Rule. No member of the Planning Commission shall voluntarily and knowingly engage in ex parte communications concerning a *quasi-judicial* matter.¹ Breach of this obligation may constitute grounds from removal of the member from the Commission by the Board of Trustees.
- B. Defined. For purposes of these Bylaws, an *ex parte* communication is a communication (oral, written, electronic mail or text messaging) with another Commission member, a Board of Trustee member, or any other person made outside of a properly noticed public hearing regarding a *quasi-judicial* matter which is or will be presented before the Planning Commission for consideration and/or discussion.
- C. Exceptions. An *ex parte* communication does not include a communication regarding procedural aspects of a matter (*i.e.*, an inquiry from, or providing informing to, a citizen concerning the date and time of a hearing and encouraging attendance) or a general non-substantive communication with Town administrative staff that would aid the member in understanding details of an application or matter. Discussions with Town administrative staff concerning the merits of an application such as the justification or reasons for approval or denial are always *ex parte* communications. All communications with the Town Attorney regarding a quasi-judicial matter are not *ex parte* communications.
- D. Disclosure Required. In the event that a member of the Planning Commission engaged in or receives ex parte communications, the member shall bring the communication to the attention of the Town Manager. The Town Manager shall seek to remedy the violation through disclosure of the communication on the public record, when and if possible.

14.0 Email.

- A. Town Issued Email. All Planning Commission members will receive a Town of Blue River assigned email account for the purposes of communications regarding Planning and Zoning Commission business. Email account use is subject to rules and restrictions imposed by the Town and will be discontinued upon expiration or termination of a member's term or at an earlier date as determined by the Town.
- B. Email Use. All members shall use the Town issued email only for public related business associated with the member's role as a Planning Commission member.
- C. Prohibition on Use of Private Email. Planning Commission members shall not use any email or text message system other than the Town issued email for the conduct of business associated with the member's role as a Planning Commission member.
- D. Email Subject to Disclosure. Members must abide by all laws regulating communication

¹ *Quasi-judicial* matters generally involve applications submitted to the Planning Commission seeking approval of a plan or proposal, a notice of public hearing is issued, and a public hearing is held to decide the rights of the applicant for approval. It shall not be a defense or excuse for a member to fail to properly recognize that a matter is quasi-judicial in nature.

by the State of Colorado through the Colorado Open Records Act and Colorado Open Meetings Law. Email messages may, at the Town's option, be disclosed to the public.

15.0 Duty to Maintain the Confidentiality of Privileged Information.

No Planning Commission member shall disclose privileged or confidential information provided to the member by the Town unless the member has received express authorization from the Town Manager or Town Attorney for disclosure. Authorization for disclosure shall not be implied.

16.0 Amendment.

These Bylaws and Rules of Order may be altered, amended or repealed and new bylaws may be adopted by the Board of Trustees.

ADOPTED BY THE BOARD OF TRUSTEES 2021.