



# CITY OF CHARLEVOIX

210 STATE ST. CHARLEVOIX, MICH. 49720 [www.CityofCharlevoix.org](http://www.CityofCharlevoix.org)

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## Planning Commission Bylaws

Adopted May 12, 2014  
Amended April 9, 2018  
Amended June 11, 2018  
Amended January 14, 2019  
Amended May 10, 2021

### 1.0 Purpose.

- 1.1 The name shall be the City of Charlevoix Planning Commission, hereafter known as the "Commission". The City of Charlevoix hereafter shall be known as the "City."
- 1.2 These Bylaws are adopted by the Commission to facilitate the performance of its duties as outlined in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, (M.C.L. 125.3801 *et seq.*), hereinafter "the Planning Act."
- 1.3 These Bylaws are also adopted to facilitate the duties of the Commission for administration of a zoning ordinance as outlined in P.A. 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 *et seq.*), hereinafter "the Zoning Act."

### 2.0 Membership. Members of the Commission are appointed pursuant to Title I, Chapter 7, Article V of the City Code, entitled Planning Commission. (Ord. 751)

- 2.1 Each member shall represent and advocate what is best for the City as a whole, putting aside personal or special interests.
- 2.2 In an effort to establish a diverse Commission, the City shall make every effort to appoint members who represent important sectors of the community and economy consistent with the requirements of Title I, Chapter 7, Article V of the City Code.
- 2.3 Liaisons. The purpose of liaisons is to provide technical assistance and advice, participate in discussions with the Commission, and answer questions from the general public or the Commission. Liaisons may include Planning Department staff, City department heads, planning consultants, the City Attorney, surveyors, engineers, or other qualified consultants.

- 2.4 Attendance. A Commission member's absence from three consecutive regularly scheduled meetings shall be considered nonfeasance in office. Nonfeasance in office shall be grounds for the City Council to remove a member from the Commission for nonperformance of duty, or misconduct, after holding a public hearing on the matter. The Commission secretary, or acting secretary in the absence of the elected secretary, shall keep attendance records and shall notify the City Council whenever any member of the Commission is absent from three consecutive regularly scheduled meetings, so the City Council can consider further action allowed under law or excuse the absences.
- 2.5 Each member shall have completed, at a minimum, basic planning commissioner training such as that offered by Michigan Association of Planning, Michigan Municipal League, or Michigan State University Extension during the member's first full term of office. The "Citizen Planner" program, offered as continuing education through Michigan State University and MSU Extension is recommended but not required. Members shall then be encouraged to attend training in planning and zoning related topics as authorized by the City Council in the adopted budget. Once a member has completed an education or training session they shall report the training to the designated staff member to be kept on official record.
- 2.6 Conflict of Interest
- (a) Each member of the Commission shall avoid conflicts of interest and/or incompatibility of office. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:
- (1) Issuing, deliberating on, voting on, or reviewing a case concerning the member, on land owned by the member, or if the case involves land adjacent to the members property.
  - (2) Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss.
  - (4) Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to the commissioner, or a friend or family member of the commissioner.
  - (5) Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, stepchildren, grandchildren, parents, brothers, sisters, grandparents, parents in-law, grandparents in-law, or members of his or her household.
  - (6) Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is an applicant or

agent for an applicant, or has a direct interest in the outcome.

- b.) If a question exists whether the circumstances actually present a conflict of interest, the Planning Commission member or zoning staff shall make a reasonable attempt to contact the city attorney prior to the Planning Commission meeting at which the matter that may give rise to the conflict of interest will be considered to obtain a legal opinion concerning whether a conflict of interest legally exists. If the Planning Commission member or zoning staff is not able to obtain a legal opinion from the city attorney then the Planning Commission may, by majority vote of the members present, adjourn the case to a specific time, date, and place in order to obtain a written opinion from the city attorney.
  - c.) When a conflict of interest exists, the member of the Commission, or committee, shall do all of the following immediately, upon first knowledge of the case and determining that a conflict exists:
    - (1) declare a conflict exists at the next meeting of the Commission or committee:
    - (2) cease to participate at the Commission or committee meetings, or in any other manner, or represent one's self before the Commission, its staff, or others, and
    - (3) during deliberation of the agenda item before the Commission or committee, remove one's self from the front table where members of the Commission sit, until that agenda item is concluded.
- 2.7 Incompatibility of Office. If a member of the Commission is appointed to another office, which is an incompatible office with his or her membership on the Commission, then on the effective date of the appointment to the other office, that shall result in an automatic resignation from the Commission. If a member of another office is appointed to the Commission, which is an incompatible office with his or her membership in the other office, then on the effective date of the appointment to the Commission, that shall result in an automatic resignation from the other office.

### **3.0 Duties of all members.**

#### **3.1 *Ex Parte* contact**

- a.) Members shall avoid *Ex Parte* contact about cases where an administrative decision is before the commission whenever possible.
- b.) Despite one's best efforts it is sometimes not possible to avoid *Ex Parte* contact. When that happens, the member should take detailed notes on what was said and report to the Commission at a public meeting or hearing what was said, so that every member and other interested parties are made aware of what was said.

#### **3.2 Site Inspections**

- (a) Planning Commissioners are encouraged to do a site inspection prior to any public meetings or hearings where a decision may be made on a particular lot or parcel. Planning Commissions should visit the site by themselves and avoid contact with the applicants, property owners, and neighbors. If requested, members may visit the site with the Zoning Administrator or liaison.
- 3.3 Code of Conduct/Accepting gifts.
  - a.) Each Planning Commissioner shall abide by the City of Charlevoix Code of Ethics and Conflict of Interest Policy. Gifts shall not be accepted by a member of the Commission or liaisons.

#### **4.0 Officers**

- 4.1 Selection: At the first regular meeting of each calendar year, the Commission shall select from its membership a Chair, and Vice-Chair. All officers are eligible for reelection. In the event the office of the Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the Commission shall select a successor to the office of Vice-Chair for the unexpired term.
- 4.2 Tenure. The Chair and Vice-Chair shall take office at the first regular meeting of the calendar year following their selection and shall hold office for a term of one year or until their successors are selected and assume office.
- 4.3 Chair's Duties. The Chair retains his or her ability to discuss, make motions and vote on issues before the Commission. The Chair shall:
  - a.) Preside at all meetings with all powers under parliamentary procedure;
  - b.) Shall rule out of order any irrelevant remarks; remarks which are personal; remarks about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or other remarks which are not about the topic before the Commission;
  - c.) Call special meetings if deemed necessary;
  - d.) Review with the staff, prior to a Commission meeting, the items to be on the agenda if he or she so chooses;
  - e.) Periodically meet with the Planning Director and/or other Planning Department staff to review Planning Department operation, procedures, and to monitor progress on various projects.
  - f.) Chair or perform a major role in the interview and selection process for a Planning Director;
  - g.) Act as the Commission's and Planning Department's chief spokesman and lobbyist to represent the Commission at local, regional, and state government levels.
  - h.) Represent the Commission before the City of Charlevoix; and
  - i.) Perform such other duties as may be ordered by the Commission.
- 4.4 Vice-Chair's Duties. The Vice-Chair shall:
  - a.) Act in the capacity of Chair, with all the powers and duties found in Section 4.3 of these Rules, in the Chair's absence;

- b.) Perform such other duties as may be ordered by the Commission.
- 4.5 Recording Secretary's Duties. The Recording Secretary shall be the City staff designated by the Planning Commission to properly notice meetings, record the audio, and compose draft minutes.

## **5.0 Meetings**

- 5.1 Regular meetings. Meetings of the Commission will generally be held the second Monday of every month at 6 p.m. at 210 State Street. When the regular meeting day falls on a legal holiday, the Commission shall select a suitable alternate day in the same month. An annual notice or regularly scheduled Commission meetings shall comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meeting Act M.C.L. 15.261 *et seq.*)
- 5.2 Special Meetings. Special meetings shall be called by the Chair, by any two members of the Commission, or by the Chair at the request of any non-member of the commission. Special meetings shall be properly notice in accordance with the Open Meetings Act.
- 5.3 Quorum. More than half the total number of seats for members of the Commission, regardless if vacancies exist or not, shall constitute a quorum for the transaction of business and the taking of official action for all matters before the Commission. Commissioners connected to a meeting remotely shall not be considered attendance for the purpose of establishing a quorum (City Council Resolution 2018-05-01). Whenever a quorum is not present at a regular or special meeting, those present shall adjourn the meeting to another day.
- 5.4 Motions.
  - a.) Motions shall be restated by the Chair before a vote is taken.
  - b.) Findings of Fact. All actions taken in an administrative capacity (including but not limited to, special use permits, subdivisions, zoning, site plan review, planned unit developments, review and submission on another municipality's proposed plan, review and submission on a capital improvement, review of township zoning) shall include each of the following parts.
    - (1) A finding of fact, listing what the Commission determines to be relevant facts in the case in order to eliminate misleading statements, hearsay, irrelevant, and untrue statements.
    - (2) Conclusions to list reasons based on the facts for the Commission's action, often directly related, or not, to a finding of compliance, or noncompliance, to standards.
    - (3) The Commission's action; recommendation or position, approval, approval with conditions, or disapproval.
- 5.5 Voting. Voting shall be by voice and shall be recorded as passing or failing. Roll call votes will be recorded only upon request by a member of the Commission and shall be recorded by "yes" or "no". Commissioners connected to a meeting remotely may vote and take any action as part of

the meeting as if the remote participant were attending the meeting in person (City Council Resolution 2018-05-01). Voting by proxy shall not occur. Except as provided herein, the affirmative vote of a majority of those present shall be necessary for the adoption of motions. The affirmative vote of a majority of the total number of seats for members of the Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan.

- 5.6 Parliamentary Procedure. Parliamentary procedure in Commission meetings shall be informal. However, if required to keep order, Commission meetings shall then be governed by *Roberts Rules of Order Newly Revised*, (12th Edition, Hachette Book Group, New York, 2020 (ISBN 978-1-5417-9770-3)) for issues not specifically covered by these Bylaws. Where these Bylaws conflict, or are different than *Robert's Rules of Order*, then these Bylaws control.
- 5.7 Public Participation. All regular and special meetings, hearings, records, and accounts shall be open to the public.
  - a.) All public comments not specifically related to agenda items shall be provided at the beginning of the meeting in accordance with the agenda. Public comments on specific agenda items shall be called for at the appropriate time by the Chair.
  - b.) The Chair may limit the amount of time allowed for each person wishing to make public comment at a Commission meeting. The Chair may ask members of the audience to caucus with others sharing similar positions so they may select a single spokesperson. If a single spokesperson is selected, that individual shall be able to make public comment at the Commission meeting without time limit or an extended time limit.
- 5.8 Order of Business. Agenda. The Recording Secretary, or designee, shall prepare an Agenda for each meeting and the order of business shall be as follows:
  - a.) Call to order and Pledge of Allegiance.
  - b.) Roll call.
  - c.) Inquiry into potential conflicts of interest.
  - d.) Approval of agenda.
  - e.) Approval of the minutes.
  - f.) Call for public comment not related to agenda items.
  - g.) New business
  - h.) Old business
  - i.) Staff updates/Planning Commission general comments/Request for research items.
  - j.) Requests for future agenda items, research, or miscellaneous business.
  - k.) Adjournment.
- 5.9 Placement of Items on the Agenda.

- a.) The City Planning Director/Zoning Administrator or City Manager may place items on the agenda with approval from the Chair.
  - b.) The Chair, Vice-Chair, any member of the Commission may request specific items be placed on the agenda.
  - c.) Any member of the public may request items be placed on the agenda, with prior approval from the Planning Commission Chair.
- 5.10 Minutes and Record. The Commission Secretary shall keep, or cause to be kept, a record of Commission meetings, which shall at a minimum include an indication of the following:
- a.) Copy of the meeting posting pursuant to P.A. 267 of 1976, as amended, (being the Michigan Open Meetings Act, M.C.L. 15.261 *et seq.*)
  - b.) Copy of the minutes, and all its attachments which shall include a summary of the meeting, in chronological sequence of occurrence.
- 5.11 Retention. Commission records shall be preserved and kept on file in accordance with the State of Michigan

## **6.0 Committees**

- 6.1 The Planning Commission may establish executive, ad-hoc, or citizen committees to assist the Commission in research, creation of neighborhood plans, to increase public involvement, or other specific purposes. Any committee established by the Commission may include not more than three Planning Commissioners. All committees are considered advisory and shall be required to follow the State of Michigan Open Meetings act.

## **7.0 Mileage and Per Diem**

- 7.1 If requested, mileage shall be paid to members of the Commission at rates established by the City of Charlevoix for attending Commission meetings and other authorized meetings and trips to represent the City of Charlevoix. City Council may establish a per diem rate for Commissioners. Commissioners may be reimbursed for travel expenses to attend training sessions or conferences with prior authorization from the City Planner/Zoning Administrator.

## **8.0 Hearings**

- 8.1 Plan Hearings. Before the adoption of any part of a plan, as defined in the Planning Act, or any amendment to a plan, or recommending approval of an amendment to the City Council, the Commission shall hold at least one public hearing on the matter. Notice of the time and place of the hearing shall be given, not less than 15 days prior to such hearing, by at least one publication in a newspaper of general circulation within the city.
- 8.2 Any other hearings required by the Zoning Ordinance or special hearings requested by the Planning Commission shall be properly noticed in accordance with the City Zoning Ordinance, the Zoning Enabling Act, or Open Meetings Act.

## **9.0 Planning Commission Responsibilities**

- 9.1 Planning Commission responsibilities and duties shall include all those delegated to the Commission by the Planning Enabling Act, the Zoning

Enabling Act, the Land Division Act, Condominium Act and the City of Charlevoix Zoning Ordinance. Examples include but are not limited to:

- a) Adoption and amendment to the City Master Plan and Parks and Recreation Master Plan.
  - b) Review of adjacent, or contiguous, local government plans from surrounding townships or Charlevoix County.
  - c) Review of the annual Capital Improvement Plan (CIP) and subsequent recommendation to City Council.
  - d) Review of new capital improvement projects not included in the annual CIP as defined by the adopted Capital Improvement Review Policy. (Resolution 2013-10-02 adopted on October, 21 2013)
  - e) Recommendations to City Council on zoning map and text amendments.
  - f) Review and decision on Level B Site Plan Reviews, PUDs, Site Condominiums and Special Use Permit applications.
  - g) Recommendations to City Council on uses on public property and donations to be used in public spaces.
- 9.2 The Planning Commission may make other decisions or recommendations pertaining to land use if requested by City Council or the general public.
- 9.3 All powers of the zoning commission have been transferred to this Commission, pursuant to M.C.L. 125.3301 of the Zoning Act.

#### **10.0 Adoption, Repeal, Amendments**

- 10.1 Upon adoption of these Bylaws of May 12, 2014, they shall become effective and all previous Bylaws, shall be repealed.
- 10.2 The Commission may suspend any one of these Bylaws, for a duration of not more than one agenda item or meeting.
- 10.3 These Bylaws may be added to, amended or repealed in whole or in part. Proposed changes to these Bylaws must be submitted in writing to the members of the Planning Commission at least one (1) month in advance of the meeting at which the proposed changes will be considered. A majority vote of the entire Planning Commission members, regardless of any vacancies, shall be required to amend these Bylaws. OR A vote of two-thirds (2/3) of the Planning Commission members present shall be required to amend these Bylaws.