

Planning Commission Bylaws
Boulder Town, Utah
Adopted _____

Purpose-Authority -----

1. **What is the purpose of these bylaws?** These bylaws are adopted to guide the Planning Commission (PC) in fulfilling the duties assigned to it by the Town’s ordinances in an accountable and well-organized manner, consistent with the community interest expressed in the general plan. These bylaws will also help applicants and the public understand and follow PC procedures.
2. **Under what authority does the PC serve? Under what authority are these bylaws adopted?** The PC is established as required by Utah Code 10-9a-301 and §153.042 of the Boulder Town Code of Ordinances. §153.042(A)(10) requires the adoption of these bylaws.

The zoning ordinance is not the best place for a requirement to adopt bylaws, which should also apply in the administration of the subdivision ordinance, but we can presume that it is sufficient for now. What’s problematic is that bylaws have never been adopted, as required.

Membership – Officers -----

3. **How many members serve on the PC? How are PC members appointed?** These and similar questions about the PC’s organization are answered in §153.042 of the Boulder Town Code of Ordinances. An excerpt from the code is provided on the next page for easy reference.

Training? Utah law does not mandate training for PC members of very small towns. It is highly desirable, however, and a training requirement could (and IMO, should) be added here.

Meetings – Agendas -----

4. **Are all PC meetings open to the public?** Yes. The PC must operate in accord with the Open and Public Meetings Act, Utah Code 52-4-101, et seq. The PC has no authority to hold executive sessions.
5. **When are regular PC meetings?** Regular meetings of the PC shall be the second Thursday of each month. The PC will convene at 7:00 PM during the months of November-April and at 8:00 PM during the months of May-October.
6. **May the PC hold special meetings? Are there limitations on such meetings?** §153.042(F)(2) of the Boulder Town Code of Ordinances authorizes special meetings. Such meetings may be held only after the required notice has been posted. The agenda of a special meeting will be limited to the topic for which it was called. Special meetings may not be called for the initial consideration of a proposed ordinance or development. As allowed by ordinance an exception to this rule may be made when consideration of a proposed ordinance or development has been delayed by the absence of a quorum.

Excerpt from Boulder Town Code, §153.042

(C) *Membership; appointment, removal, terms and vacancies.*

(1) The Planning Commission shall be composed of five regular members, and one alternate member, appointed by the Mayor, with the advice and consent of the Council.

(2) The Council, after finding cause, may remove any member of the Commission for a violation of this chapter or any policies or procedures adopted by the Commission following receipt of a written complaint filed against the member. The Council shall provide the member with a hearing, if requested.

(3) Members of the Commission may be compensated on a per diem basis, based upon meetings actually attended and reasonable and necessary expenses, as determined by the Council.

(4) All members of the Commission, including the alternate member, shall serve a term of five years. No member shall serve more than two consecutive full terms. If any member begins serving his or her term and then resigns, or is unable to complete his or her term, a replacement shall be appointed. The service of a replacement member during the remainder of an unexpired term shall not constitute a full term. Consequently, a replacement member may serve the remainder of a former member's term and then be eligible to also serve two consecutive full terms, if so appointed.

(5) At an annual organizational meeting to be held the first regular meeting in January, and at other times as required, the members of the Commission shall elect one of their members as Chair and one of their members as Vice-Chair. In the absence of the Chair, the Vice-Chair shall act as Chair and shall have all powers of the Chair. The Chair shall serve a term of two years. No member shall serve as Chair for more than two consecutive terms.

(6) The Chair, or in the Chair's absence the Vice-Chair, shall be in charge of all proceedings before the Commission, and shall take such actions as necessary to preserve order and the integrity of all proceedings before the Commission.

(D) *Recording Secretary.* The Council shall appoint a Recording Secretary to serve the Commission. The Recording Secretary shall keep the minutes of all proceedings of the Commission, which minutes shall be the official record of all proceedings before the Commission, attested to by a majority vote of the members of the Commission. The Recording Secretary shall be compensated as approved by the Council.

(E) *Quorum and necessary vote.* No meeting of the Commission may be called to order, nor may any business be transacted without a quorum consisting of at least three members of the Commission being present. The Chair and the alternate member shall be included for purposes of establishing a quorum and shall act as a voting member of the Commission. The alternate member shall attend the meetings and, in the event of any absence of any regular member at a meeting, the alternate shall assume a regular member place on the Commission and shall vote in that place at that meeting. In the event that all five regular members are in attendance, the alternate shall sit in on the meeting and have a voice, but shall not have a vote. All actions of the Commission shall require a roll call vote of the Commissions duly seated at a meeting with a majority of said members voting in the affirmative.

(F) *Meetings, hearings and procedure.*

(1) The Commission shall establish a regular meeting schedule.

(2) Special meetings may be requested by the Council, the Chair of the Commission or a majority of the members of the Commission.

(3) If a matter is postponed due to lack of a quorum, the Chair shall reschedule the matter to the next available Commission meeting. The Recording Secretary shall notify all interested parties and all members of the Commission of the date when the rescheduled matter will be heard by the Commission.

It sometimes happens that applicants pressure a PC for fast action at a special meeting before review of their proposal would ordinarily be scheduled. Yielding to that pressure inevitably creates a public impression of preferential treatment and undermines the credibility of the planning process. The current ordinances don't prohibit it (as they should), so I have prohibited it here, with one appropriate exception.

- 7. How are PC meeting agendas set?** Meeting agendas must be made available to the public in advance, as required by State law. Agendas will be assembled and posted by the Recording Secretary in collaboration with the Zoning Administrator (ZA) and Chair. The agenda will be reviewed and adopted as the PC's first action at every meeting. An item may be added at this time by simple majority vote of the members present. **INITIAL CONSIDERATION OF A PROPOSED ORDINANCE OR DEVELOPMENT MAY NOT BE ADDED TO AN AGENDA AS ALLOWED HERE. POSTED NOTICE IS REQUIRED FOR ALL SUCH DISCUSSIONS.**
- 8. May the PC manage the length of its meetings to ensure proper consideration of all matters?** Yes. When numerous items are proposed for the PC to consider at a given meeting, the agenda shall be limited to the number of items the Chair determines can be properly addressed in a meeting that ends at approximately 10:00 PM. When this is necessary, the PC may schedule one or more special meetings to address items that were deferred.
- 9. May the PC encourage development consistent with the general plan by giving certain applications priority on its agendas?** Yes. Applications for developments that provide permanent protection of open space resources and/or perpetually affordable housing shall be placed first on the agenda.
- 10. How may the public be involved in PC meetings?** There are two opportunities for public involvement in PC meetings. The procedures for the second, participation in public hearings, are described later in these bylaws. First, however, the third agenda item at every regularly scheduled PC meeting shall be a time for public questions and comments. This question and comment time may be informal, involving all present in discussion, but with the clear understanding that the PC is making no decisions. It shall be limited in time to ensure that the listed agenda items receive proper consideration. Whoever is presiding is empowered to insist that questions and comments be relevant and respectful. **NEITHER PROPOSED ORDINANCES NOR PROPOSED DEVELOPMENTS FOR WHICH PC CONSIDERATION HAS BEEN SCHEDULED AND POSTED MAY BE ADDRESSED AT THIS TIME.**

I suggest a change from current practice here; moving general comments and questions to the beginning. People tend to be ready to go home at the end of the listed business, making it difficult to focus on what may be important questions or issues. It also sometimes happens that an open comment period at the end of a meeting becomes a forum for negative energy about what a PC just did. There's no need to invite that. Someone who feels you made a mistake can come back in a month and have their say after they've thought about it. Discussion of matters that are already scheduled for review at another time is inappropriate because it may influence decisions without being properly noticed or included in the record of decision.

- 11. How will minutes of PC meetings be taken?** Minutes of PC meetings will be taken, distributed to the PC, and made available to the public, as required by law, by the Recording

Secretary. Whoever is presiding will appoint a person to take minutes if the Recording Secretary is absent.

ZAs often get stuck with taking minutes when the secretary is absent, but the jobs of ZA and Recording Secretary should not ordinarily be combined. The ZA needs to focus on supporting the discussion, not on making sure the record is correct. The Chair can appoint a member or any reliable person who is in attendance to this chore.

12. How will PC meeting minutes be approved? Review of the minutes of previous meetings will be the PC's second action at every regularly scheduled meeting. Whoever is presiding will first ask for corrections, which may be made by consensus if there is no disagreement, then for a motion to approve the minutes as corrected. A simple majority of the members present is required for approval of the minutes. Note that a member who was not present at a meeting may not vote on approval of the minutes of that meeting.

Development Review

13. Is preapplication review required for some proposed developments? Yes. Concept plan review is required for proposed subdivisions. It is not required for proposed plat amendments or conditional use permits.

Note that, while it is not required, a person who plans to seek a plat amendment or apply for a CUP could request time on the PC agenda for an informal discussion of their idea. This should be encouraged for complicated projects.

14. How is concept plan review conducted by the PC?

- The applicant must submit a concept plan to the ZA at least 20 days before the meeting at which concept plan review is requested.
- The ZA will notify the Recording Secretary and Chair that a concept plan review has been requested. They will add it to the agenda of the next regularly scheduled meeting at which time will permit its proper consideration. No determination of completeness is required for a concept plan, but applicants should seek the ZA's advice if they have questions.
- Concept plan reviews may be conducted on site. Where this is done, the posted meeting notice will provide directions to the site and the applicant will be responsible for ensuring safe access and parking.
- Concept plans are a basis for an informal conversation that may result in significant changes in the applicant's initial ideas. They do not require substantial upfront investment in surveying or engineering.
- The ideal concept plan will be presented as an overlay over a recent aerial image of the site. It will show accurate site boundaries, proposed building sites, proposed

roads, and proposed open spaces. The applicant may also provide photographs and other supporting materials.

- Review of the concept plan will be informal, with the interested public involved. Whoever is presiding is empowered to ensure that public comment is respectful.
- When there has been sufficient discussion, whoever is presiding will ask PC members to list their concerns and recommendations for consideration by the applicant. The Recording Secretary, with the assistance of the ZA and any PC members assigned to the task, will prepare a written list of concerns and recommendations that will be conveyed to the applicant within 20 days after the concept plan review.
- It is expected that the PC's concerns and recommendations will be reflected in the application for subdivision approval, if one is submitted.
- Concept plan reviews expire after two (2) years.

15. Is there a deadline for filing applications for development review? Yes. All applications for PC review must be submitted to the ZA at least 20 days before the meeting at which a hearing is requested.

16. Will the PC review incomplete applications? Never. The completeness of applications will be determined by the Zoning Administrator before any action on an application is scheduled.

- The completeness of applications for conditional use permits will be determined using a checklist of site development plan requirements established by §153.150(B) of the Boulder Town Code of Ordinances.

A copy of that checklist will accompany this draft. I will prepare a similar plat amendment checklist.

- The completeness of applications for plat amendments will be determined using a checklist of submittal requirement established by 152.116(C) of the Boulder Town Code of Ordinances.

Additional discussion will be needed before saying specifically how it will be determined that applications to create subdivisions are complete.

17. How will public hearings on development reviews be scheduled? How will notice of such hearings be provided? The ZA will notify the Recording Secretary that an application has been determined to be complete. The Recording Secretary will then add a hearing on the application to the agenda of the next regularly scheduled meeting for which the notice required by State law can be posted and at which time will allow its proper consideration,

18. How will applications for Conditional Use Permits (CUPS) be reviewed? All applications for CUPs shall be reviewed as provided by §§153.150, et seq. of the Boulder Town Code of Ordinances and the procedures adopted in these bylaws.

19. How will applications to create land divisions be reviewed?

- Proposed plat amendments shall be reviewed following the procedures adopted in §152.116 of the Boulder Town Code of Ordinances and the procedures adopted in these bylaws.
- Proposed subdivisions will be reviewed as provided in Title 152 of the Boulder Town Code of Ordinances.

This provision of the bylaws will need to be amended following the adoption of improved subdivision standards.

Public Hearings – Decisions

20. What is the PC's public hearing procedure?

- Whoever is presiding will open the hearing by stating its topic, noting that proper notice was given, when, and how (this needs to be in the hearing record); then asking if any member wishes to declare or discuss a potential conflict of interest or an ex parte communication.
- The PC will discuss potential conflicts of interest and ex parte communications declared by members. This may include asking members to refrain from participation while the alternate member takes their place. It may also include, when necessary to have a quorum, allowing a member to participate once everyone has a clear understanding of the nature and extent of the potential conflict or ex parte communication.
- Whoever is presiding will ask the ZA to briefly describe the project. This description will include a history of the project so far in order to put the date of the concept plan review, if one was required, and follow-up; the date when the application was determined to be complete, and similar procedural facts into the hearing record.
- Following the ZA's presentation, whoever is presiding will ask if there are factual questions about the project. This is a time for clarification, not comment. Whoever is presiding will direct people to save comments for the next step in the procedure.
- Factual questions will be answered by the ZA or a PC member based on the content of the general plan, the ordinances, and the application. The purpose here is to help those in attendance understand the application and the basis for its review. The PC will not respond to questions during a hearing.

- The PC may impose a time limit on statements before a public hearing begins. It may also ask people to make statements in the order they signed a register made available for this purpose before the hearing.
- Whoever is presiding will remind everyone that statements are to address compliance with the general plan and ordinances as specifically as possible, then ask for statements, beginning with a statement from the applicant or applicant's representative.
- Any person making a statement is required to begin with their name and address.
- Whoever is presiding will use the gavel to maintain focus and civil conduct if necessary. Irrelevant or unduly repetitive statements. may be judiciously cut off.
- PC members may ask questions for the clarification of any statement. They should, however, refrain from commenting on questions of compliance until all statements have been taken and discussion begins.
- People may be allowed to speak a second time to clarify their statement if time allows.
- When everyone who wishes to speak has, whoever is presiding will, with the assistance of the Recording Secretary, read all written statements that were submitted into the record. This may be done by reference, without reading the entire text.
- Whoever is presiding will then close the public hearing.

21. How does the PC make decisions following a public hearing?

- Whoever is presiding will guide the PC in identifying areas of agreement and topics that require discussion. This discussion may be based on recommendations submitted by the ZA.

Checklists help the PC sort and focus on what really requires attention. I haven't mentioned them here because you don't have checklists for every type of decision yet.

- Members may inform their discussion by asking questions of the applicant, the applicant's representative, anyone who gave a statement, or anyone present who may have the knowledge needed.
- The PC may adopt a motion accepting the ZA's recommendations in whole or in part. It may also make separate decisions about compliance item by item, followed by a final decision based on those decisions.

- All votes taken in the process of reviewing a proposed ordinance or an application for development shall be by roll call.
- The PC shall impose any conditions that it believes are necessary to ensure compliance with specifically cited provisions of the general plan and/or ordinances on the approval of any application.

Writing conditions is usually the hardest part of making a good decision. The ZA should recommend conditions when possible and PC members are encouraged to come prepared to propose conditions in writing. It is also important to build a “library” of conditions that can be used in future decisions. If you don’t think you can get one or more conditions right, it is ok to table the decision until you can.

- The PC must give reasons that are based in specifically cited provisions of the general plan and ordinances for the denial of an application.

22. *May the PC table a decision?* Yes, by simple majority vote of the members present, for a cause stated in the motion to table, and to a date certain, which may be a regularly scheduled or special meeting.

23. *How will the applicant and others be notified of PC decisions?* The ZA will provide a written record of decision, including all conditions imposed or all reasons for denial, to the applicant and others who have requested that record in writing within 15 days following the decision. The ZA may seek the review of the Chair or other members before completing the record of decision.

15 days is typical. Is it enough given Boulder’s limited resources?

24. *May an applicant begin work or offer land for sale on an approved project before receiving the record of decision.* Not wisely. In many cases, an administrative permit will be required before work begins and no such permit may be issued until the record of decision is complete. In all cases, the applicant proceeds entirely at his or her own risk before receiving the record of decision.

25. *Will these bylaws be reviewed on a regular basis? How may they be amended?* The PC will include a review of these bylaws on the agenda of its first regularly scheduled meeting every year. They may be amended at that time, or at any other time at which discussion of the bylaws appears on the published agenda. Amendments to these bylaws must be made with the approval of a majority of the entire PC.