

**RULES OF PROCEDURE OF THE PLANNING AND ZONING COMMISSION
OF SUSSEX COUNTY, DELAWARE**

These rules shall govern the procedure of the Planning and Zoning Commission of Sussex County, Delaware.

Definitions

“Agenda” includes but is not limited to a general statement of the major issues expected to be discussed at a public meeting, as well as a statement of intent to hold an Executive Session and the specific ground or grounds therefor.

“County” means Sussex County, Delaware, unless otherwise specified.

“Planning and Zoning Commission” or “Commission” means the Planning and Zoning Commission of Sussex County, Delaware.

“Meeting” means the formal or informal gathering of a quorum of the members of the Planning and Zoning Commission for the purpose of discussion or taking action on public business.

“Chairman” means the Chairman of the Planning and Zoning Commission.

“Presiding Officer” means the Chairman of the Planning and Zoning Commission, or such other person who presides over the meetings of the Planning and Zoning Commission, pursuant to the Rules of the Planning and Zoning Commission.

“Public business” means any matter over which the Planning and Zoning Commission has supervision, control, jurisdiction or advisory power.

“Secretary” means the Secretary of the Planning and Zoning Commission.

Rule 1 – Order of Business; Conduct of Meetings

1.1 The order of business at each regular meeting of the Planning and Zoning Commission shall be as follows:

- Call to Order
- Amendments to Agenda
- Adoption of Agenda
- Approval of Minutes
- Public Comment
- Consent Agenda
- Old Business
- Public Hearings
- Other Business

Adjournment

- 1.2 The order of business can be altered at any duly constituted meeting by an affirmative vote of a majority of the Planning and Zoning Commission members present. The privilege of the floor may be granted to the public at any time by the presiding officer.
- 1.3 During public hearings, the presiding officer may set reasonable time limits on public comments. An individual may submit a written statement in lieu of or in addition to verbal comments. The presiding officer may terminate or limit testimony which is irrelevant or unduly repetitive.
- 1.4 Every attempt will be made to complete all business scheduled. In the event that the presentation of a scheduled agenda item takes longer than reasonably anticipated, the presentation may be suspended by approval of a majority of the Planning and Zoning Commission members present. A motion to suspend a presentation should include the date and time at which the remainder of the presentation will be heard.

Rule 2 – Meetings of the Planning and Zoning Commission

- 2.1 Regular meetings shall be held in the Sussex County Administration Building or such other location as designated by majority vote of all of the members of the Planning and Zoning Commission.
- 2.2 Regular meetings shall convene on those days and times when a meeting has been properly noticed and advertised.
- 2.3 Special meetings and executive sessions may be held as provided in Title 29, Chapter 100 of the Delaware Code.
- 2.4 Except for Executive Sessions, all meetings shall be open to the public.
- 2.5 Minutes of all meetings, including Executive Sessions, shall be kept. At a minimum, the minutes shall include a record of attendance and a record, by individual members of the Planning and Zoning Commission, of each vote taken and each action agreed upon.
- 2.6 The first regular meeting of July shall constitute the annual organizational meeting of the Commission.

Rule 3 – Public Notice of Meetings

- 3.1 Public notice of all meetings shall be posted on the public bulletin board located in the Sussex County Office of Planning and Zoning in the County Administrative Building and on the official Sussex County website.

- 3.2 Public notice and advertisement of meetings and public hearings shall comply with all applicable provisions of State law and County ordinances. In addition, notice of a public hearing shall be mailed to an appellant or applicant (or attorney or agent of the appellant or applicant as identified in the application or by subsequent written notice to the Commission) at least 20 days before the date of the hearing.
- 3.3 The Director of Planning and Zoning shall cause a copy of the public notice of the public hearing to be mailed to the owners of each parcel of real property lying within a 200 foot radius of the boundaries of the property subject to the application, partnership or corporation whose name appears on the list using the address found within the records of the Sussex County Assessment Department. Failure to comply with the provisions of Rule 3.3 shall not be considered a defect in the requirements for public notice of a public hearing.

Rule 4 – Agenda

- 4.1 The agenda for Planning and Zoning Commission meetings shall be available to the members of the Planning and Zoning Commission at least one week prior to the scheduled meeting.
- 4.2 The Director of Planning and Zoning shall be responsible for the preparation and contents of the agenda. Subject to the advertising and public notice requirements of Title 29, Chapter 100 of the Delaware Code, as well as other applicable state laws or county ordinances, any member of the Planning and Zoning Commission may place items on the agenda by contacting the Director of Planning and Zoning, either verbally or in writing, prior to the posting of the agenda. Any other person may request to have items placed on the Planning and Zoning Commission agenda by notifying the Director of Planning and Zoning, in writing; provided, however, that items requested to be placed on the agenda that are not, in the opinion of the Director, within the Commission's jurisdiction, or which do not meet requirements of notice or advertisement, will not be placed on the posted agenda.
- 4.3 Items which arise at the time of the Planning and Zoning Commission's meeting may be added to the agenda, and items may be deleted from the agenda, by a majority vote of all of its members of the Planning and Zoning Commission present, subject to the advertising and public notice requirements of Title 29, Chapter 100 of the Delaware Code, as well as other applicable state laws or county ordinances.

Rule 4.A - Consent Agenda

- 4A.1 The Director of Planning and Zoning or any member of the Planning and Zoning Commission may propose any matter that would be considered on an agenda for

inclusion on a Consent Agenda. The Consent Agenda shall list the matters so included and a brief discussion of each.

- 4A.2 An item may be removed from a Consent Agenda if any Member of the Planning and Zoning Commission requests that it be given separate individual consideration. If an item is removed from the Consent Agenda, it shall be considered as a separate item under the appropriate section of that meeting's agenda.
- 4A.3 All items on a Consent Agenda shall be read and voted on as a single group.

Rule 5 – Attendance of Members of the Planning and Zoning Commission at Meetings; Quorums

- 5.1 No member of the Planning and Zoning Commission shall be absent from scheduled meetings or from other official duties without cause. When unable to attend a scheduled meeting, a member of the Planning and Zoning Commission shall be responsible for notifying one of the following: the Chairman, the Director of Planning and Zoning, another Planning and Zoning Commission member, or a staff member of the Office of Planning and Zoning.
- 5.2 The presence of no less than three (3) members of the Planning and Zoning Commission shall constitute a quorum.
- 5.3 When a quorum is not present at any properly called meeting, the members of the Planning and Zoning Commission present shall adjourn.
- 5.4 If no members of the Planning and Zoning Commission are present, any staff member of the Office of Planning and Zoning shall adjourn the meeting.
- 5.5 Three (3) affirmative votes shall be required to approve any matter within the jurisdiction of the Planning and Zoning Commission. Failure to receive three (3) affirmative votes shall be deemed to disapprove any matter.
- 5.6 Any other matter may be decided by majority vote of Planning and Zoning Commission members present.

Rule 6 – Voting Procedure

- 6.1 On each motion duly made and seconded, the presiding officer shall conduct a voice vote and announce the results.
- 6.2 A written record shall be made by the Secretary of the vote of the Commission on each vote taken. Said record shall reflect the number of "aye" votes, the number of "nay" votes and the number of "abstaining" votes.

6.3 The presiding officer may conduct a roll call vote, if in his opinion it is necessary.

Rule 7 – Record Keeping

7.1 A file shall be kept in the Office of Planning and Zoning of all Planning and Zoning Commission meetings. The file shall include copies of meeting notices (including the time, date and place where they were posted), the agenda and the minutes of the meeting.

Rule 8 – Minutes of Planning and Zoning Commission Meetings

8.1 Minutes shall be taken of each meeting of the Planning and Zoning Commission, and shall reflect the following:

- a. Kind of Meeting.
- b. Date and place of meeting.
- c. Name of the presiding officer.
- d. Members of Planning and Zoning Commission present.
- e. Whether the minutes of the previous meeting were approved.
- f. The proceedings of the Planning and Zoning Commission, briefly and accurately stated. The minutes shall record what was done rather than what was said. However, a member of Planning and Zoning Commission may request that a statement or written material be attached to the minutes and made a part thereof.
- g. All motions voted upon and the results of said motions.
- h. Names of members of Planning and Zoning Commission making motions and those making secondary motions.
- i. A record of each vote taken and action agreed upon.
- j. Time of convention and adjournment.

8.2 Minutes shall be taken, prepared and presented by a staff member of the Office of Planning and Zoning in written form for approval as written or as amended. The minutes as approved shall be filed in the minute book of the Planning and Zoning Commission. Copies of the approved minutes shall be made available to the general public, except as otherwise authorized by law.

- 8.3 Digital recordings will be made of all Planning and Zoning Commission meetings at which County business is transacted. The recordings shall be under the custody of the Director of Planning and Zoning and shall be open to inspection or copying in accordance with applicable law regarding access to public records. In addition, all proceedings are broadcast on the Sussex County website: sussexcountyde.gov.

Rule 9 – Conduct During Meetings

- 9.1 When a member of Planning and Zoning Commission desires to speak, that member shall address the presiding officer and shall not proceed until recognized and granted the privilege of the floor. The presiding officer shall recognize the member of Planning and Zoning Commission who is the first to address the presiding officer.
- 9.2 No member of Planning and Zoning Commission shall interrupt another in debate without the consent of the other. To obtain such consent, the member shall first address the presiding officer.
- 9.3 If any member of Planning and Zoning Commission, in speaking or otherwise, transgresses the Rules of the Planning and Zoning Commission, the presiding officer shall, or any member of Planning and Zoning Commission may, call the errant member to order. When a member shall be called to order, that member shall not proceed without the permission of the presiding officer.

Rule 10 – Change or Suspension of Rules

- 10.1 Any Rule of the Planning and Zoning Commission may be changed or suspended by the approval of a majority of all of the members of the Planning and Zoning Commission.

Rule 11 – Rules of Order

- 11.1 All rules of parliamentary procedure not covered or provided for by the RULES OF PROCEDURE OF THE PLANNING AND ZONING COMMISSION OF SUSSEX COUNTY, DELAWARE, or by the laws of the State of Delaware, shall be decided in accordance with MASON'S MANUAL OF LEGISLATIVE PROCEDURE.

Rule 12 – Vice-Chairman and Other Presiding Officer

- 12.1 In the absence of the Chairman, the presiding office, with all powers and duties of the Chairman enumerated herein, shall be the Vice-Chairman as elected from its membership by a majority vote of all of the members of Planning and Zoning Commission. In the absence of the Vice-Chairman, the presiding officer, with all powers and duties of the Chairman enumerated herein, shall be such other

member of the Planning and Zoning Commission as is elected by a majority vote of the members of Planning and Zoning Commission present.

Rule 13 – Secretary

- 13.1 The Chairman shall appoint a Secretary at the annual organizational meeting who shall serve at the pleasure of the Commission. The Secretary shall perform those duties as set forth in Chapter 115 of the Sussex County Code, and shall supervise the clerical work of the Commission.

Rule 14 – Standards of Conduct

- 14.1 Persons attending Planning and Zoning Commission meetings shall observe appropriate dress standards and standards of conduct. Attire that may distract from the proceedings shall not be permitted.
- 14.2 No applause or other disruptive behavior shall be permitted. No signs or placards shall be permitted at any meeting of the Planning and Zoning Commission.
- 14.3 Members of the news media shall conduct themselves in such a manner as to not be disruptive of the proceedings of the Planning and Zoning Commission.
- 14.4 Persons attending Planning and Zoning Commission meetings shall at all times conduct themselves in an orderly manner and follow the direction of the presiding officer. The Sussex County Sheriff or other person designated by the presiding officer shall be responsible for ensuring that reasonable and appropriate dress standards and standards of conduct are observed at meetings of the Planning and Zoning Commission.

Rule 15 – Applications to the Planning and Zoning Commission

- 15.1 Applications to the Commission, as permitted by State law and County ordinances, shall be on forms to be prepared by the Director of Planning and Zoning and approved by the Planning and Zoning Commission, and shall be accompanied by the proper fee. The fee may be waived by the Commission upon a majority vote. Applications shall be signed by any person authorized by law to make such an application, or an agent or attorney of such person.
- 15.2 Applications shall not be amended after public notice of the public hearing has been transmitted to a newspaper for publication.
- 15.3.1 All site plans, revisions to site plans, surveys, plots, documents, reports, supporting statements, or other material to be presented in support of an application shall be submitted to the Secretary not later than 10 calendar days prior to the meeting of the Planning and Zoning Commission at which the

application is to be presented or heard. This requirement may be waived by the Chairman only upon a showing of good cause therefor by the applicant.

- 15.3.2 During the presentation of an application to the Commission, persons addressing the Commission shall identify themselves by name and place of residence. No direct questioning or cross-examination of witnesses or applicants will be permitted. All questions should be directed to the Commission and the Commission may direct the question to the appropriate person. There will be no rebuttal testimony or presentation by the applicant or by any party in support of, or in opposition to an application, unless permitted or requested by the Commission.
- 15.4 Following a decision by the Commission on an application, a copy of the written decision shall be sent to the applicant, or the agent or attorney for the applicant.
- 15.5 If an applicant, his agent or attorney shall fail to appear prior to the conclusion of a meeting at which the application is scheduled for public hearing, the application shall be denied or recommended for denial for failure by the applicant to present a record in support of the application. Any reconsideration of an application denied under these circumstances shall be scheduled as though it is a newly filed matter; no scheduling preference shall be given unless permitted by the Commission.

Under very limited circumstances, if an applicant fails to appear at a scheduled zoning hearing, the applicant may request reconsideration and a new hearing accordance with Sussex County Code § 115-216D. If a petitioner, applicant or appellant fails to appear, or appear by agent, at the scheduled zoning hearing requesting an amendment, subdivision approval, supplement or change, and the failure to appear is for reasons beyond his control, within fifteen (15) days of the scheduled hearing before the Planning and Zoning Commission, the applicant may submit a Petition for Reconsideration to the Planning and Zoning Commission. Petitions submitted after the deadline shall not be considered.

The Petition for Reconsideration shall contain detailed facts sufficient to demonstrate that the applicant's failure to appear was beyond his control. Reasons may include, but are not limited to, the following:

- a. Emergency medical situations for applicant or applicant's immediate family;
- b. Death of a family member;
- c. Automobile accident;
- d. Failure to receive proper notice of the hearing; and
- e. Such other reason as may demonstrate extenuating circumstances or an event or condition that prohibited applicant's appearance at the public hearing.

Applicant shall include in his Petition any supporting documentation available such as a physician's note, hospital admission form, police report and the like.

Only those facts contained in the Petition and supporting documentation submitted with the Petition shall be considered by the Planning and Zoning Commission.

Upon receipt of the Petition, the Planning and Zoning Commission shall place the Petition on the agenda of its next available regular meeting for discussion and possible action.

If the Petition for Reconsideration is approved, a new public hearing date will be advertised in accordance with the Sussex County Zoning Ordinance. Pursuant to Sussex County Code, §115-216F, if the Petition for Reconsideration is denied, the applicant may not re-submit the application, or one substantially similar to it, sooner than one (1) year after the previous failure to appear.

- 15.6 Any application that is withdrawn in advance of the scheduled public hearing may be reconsidered (or a new application for the same property may be considered) as though it is a newly filed matter; no scheduling preference shall be given unless permitted by the Commission.

Rule 16 – Delaware Freedom of Information Act

- 16.1 All procedures of the Planning and Zoning Commission shall comply with the Delaware Freedom of Information Act, as contained in Title 29, Chapter 100 of the Delaware Code, as amended. To the extent that any provision herein shall conflict with the provisions of the Delaware Freedom of Information Act, the more restrictive provision shall apply.

- 16.2 The right to make public comment shall be subject to the following procedures, which shall be enforced by the Chairman of the Commission. Public comment shall be permitted at each meeting as a separate agenda item.

A. Each speaker shall only speak from the podium after being recognized and shall first identify themselves and give their residence address within the County. Each speaker shall be limited to 3 minutes and the time shall be kept by electronic clock and displayed to the speaker. At the end of that time, the Chairman will either inform the speaker that their time is up or grant the speaker up to an additional 2 minutes.

B. Each speaker shall confine his or her comments to matters which are clearly within the jurisdiction of the Commission.

C. Public comment is not intended to provide a means for a member of the public to appeal a decision made by the Commission or County staff.

D. Public comment shall be addressed to the Commission as a body and not to a specific Commissioner. After a person is recognized and allowed to speak,

they should not be interrupted except by the Chairman to enforce these policies. The Chairman shall have the discretion to stop a speaker from further comment if the speaker digresses from the restrictions as to time or matters within the Commission's jurisdiction or if the speaker becomes so willfully and seriously disruptive as to prevent the Commission from accomplishing its business in a reasonable manner.

- E. The Chairman or staff may, but are not required to, respond to a speaker or to a question or an issue raised by a speaker. In situations where the Chairman or staff responds, the response shall not indicate the position of the Commission as a body and to the extent possible, be limited to informing the speaker, if appropriate, of the proper person or organization to whom their concerns should be addressed.
- F. Nothing in this Rule shall be construed to prohibit the Commission from seeking comments from persons with particular knowledge on a matter before them.
- G. Public comment shall be prohibited under this Rule for all matters requiring a public hearing; instead any public comment associated with matters requiring a public hearing shall only occur during the designated time for such comments during a public hearing.

Rule 17 – Delaware State Employees', Officers' and Officials' Code of Conduct

17.1 Members of the Planning and Zoning Commission shall be subject to the Delaware State Employees', Officers' and Officials' Code of Conduct, as set forth in Title 29, Chapter 58, Subchapter I of the Delaware Code.

Rule 18 – Request for a Rehearing

- 18.1 A motion for a rehearing of a subdivision application shall be made in accordance with the procedures set forth in Chapter 99 of the Sussex County Code.
- 18.2 A motion for a rehearing shall state the grounds therefore and may be accompanied by applicable affidavits. The motion and affidavits shall be provided by mail to the opposing party of record, if any. The opposing party shall have 10 days after receipt of the motion to file a response thereto and attach applicable affidavits. The Commission shall determine the motion upon the written application, any response thereto, and accompanying affidavits, if any.

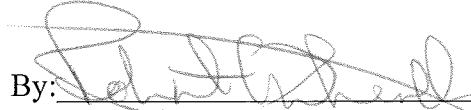
Rule 19 - Commissioner Areas


19.1 Within 6 months of adoption or amendment of Councilmanic Districts, and more frequently if deemed necessary by the Planning and Zoning Commission, the Commission shall review the individual areas of responsibility of each Commissioner.

Rule 20 – Adoption and Effective Date

20.1 These rules as amended shall become effective December 8, 2022, upon adoption by a majority vote of all of the members of the Planning and Zoning Commission.

SUSSEX COUNTY PLANNING
AND ZONING COMMISSION

By: 
Chairman

Attest: 
Secretary

Adopted: October 9, 1998
Effective: October 9, 1998
Revised: October 17, 2007
Revised: June 25, 2015
Revised: May 10, 2018
Revised: October 6, 2022
Revised: December 8, 2022