

# **TOWN OF WYTHEVILLE PLANNING COMMISSION RULES OF PROCEDURE**

Be it resolved that the Planning Commission does hereby accept and adopt these Rules of Procedure in order to facilitate its powers and duties in accordance with provisions of Title 15.2, Code of Virginia of 1950, as amended.

## **INTRODUCTION**

These Rules of Procedure were designed and adopted for the benefit and convenience of the Planning Commission. Their purpose is to help the Commission conduct its affairs in a timely and efficient manner. They incorporate the general principles of parliamentary procedure found in *Robert's Rules of Order Newly Revised* and applicable Virginia laws. The Rules of Procedure do not create substantive rights for third parties or participants in proceedings before the Commission. Further, the Commission reserves the right to suspend or amend the Rules of Procedure whenever a majority of the Commission decides to do so. When the Rules of Procedure do not address a procedural issue, the Commission may consider the most recent edition of *Robert's Rules of Order* for guidance. The failure of the Commission to strictly comply with the Rules of Procedure shall not invalidate any action of the Commission.

## **ARTICLE I. PURPOSE AND BASIC PRINCIPLES**

### **1.1 Purpose of Rules of Procedure**

- A. To enable the Commission to transact business fully, expeditiously, and efficiently while affording every opportunity to citizens to witness the operations of government;
- B. To protect the rights of each individual Commission member;
- C. To preserve a spirit of cooperation among Commission members; and,
- D. To operate in accordance with the enabling statutes of the Code of Virginia.

### **1.2 Basic Principles Underlying Rules of Procedure**

- A. The business of the Commission should proceed in the most efficient manner possible;
- B. The Rules of Procedure must be followed consistently;
- C. Actions should be the result of a decision on the merits and not a manipulation of the procedural rules;
- D. Only one subject may claim the attention of the Commission at one time;
- E. Each item presented for consideration is entitled to full and free discussion;
- F. Every member has equal rights to participate and vote on all issues;
- G. Every member must have equal opportunity to participate in decision making;
- H. The will of the majority must be carried out, and the rights of the minority must be preserved; and,
- I. The Commission must act as a body.

## ARTICLE II – TITLE, ESTABLISHMENT AND POWERS

- 2.1 **Title.** The official title of this Commission shall be the Town of Wytheville Planning Commission. As referenced in this document, shall also be known as the “Commission.”
- 2.2 **Establishment.** This Planning Commission for Town of Wytheville established pursuant to Article § 15.2-2210, Code of Virginia, has adopted these Rules of Procedure to facilitate its powers and duties in accordance with the provisions of Title 15.2, Chapter 22, Code of Virginia. The Rules of Procedure can be amended, as needed, and updated accordingly by the Planning Commission.
- 2.3 **Powers.** The Planning Commission shall have the powers and duties as set forth in the Code of Virginia, including those powers enumerated in the Unified Development Ordinance for the Town of Wytheville.
- 2.4 **Validity.** If any word, clause, sentence, article, section, subsection or other part or parts of these rules shall be held by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining parts of these rules, nor shall it affect any application of these rules that may be given effect without the unconstitutional or invalid parts, and to this end, all provisions of these rules are hereby declared to be severable

## ARTICLE III – MEMBERS AND APPOINTMENT TO SERVE

- 3.1 **Members.** The Commission shall consist of seven (7) members, who shall all be citizens of the Town of Wytheville, qualified by knowledge and experience to make decisions on land use, community growth and development. At least one half of the membership shall be owners of real property. One (1) member of the Planning Commission shall be a member of the Town Council whose term shall be conducive with the term on the Council. The Council may at its own discretion replace this member with another Town Council member at its first regular meeting of the year. One (1) member may serve on both the Board of Zoning Appeals and the Planning Commission.
- 3.2 **Term.** The standard and regular term of office for Planning Commission members shall be four (4) years each. Appointments to fill vacancies shall be for the unexpired portion of the term. The Town will appoint members for staggering terms at the discretion of the Town Council.
- 3.3 **Term Limits.** The Town has established a term limit of two (2) terms in addition to any time needed to fill vacancies left by another member. Members may be reappointed to succeed themselves for a second term. A member whose term expires shall continue to serve until his successor is appointed and qualifies. Members must wait one (1) year for any reappointment after they have served two (2) terms.

- 3.4 **Meeting Preparation.** Members should prepare for the meetings and understand the applicable ordinances and plans relating to upcoming decisions by the Commission. Members are encouraged to contact town staff with any questions they may have prior to a meeting and/or visit relevant sites when it is possible to do so from public areas.
- 3.5 **Attendance.** Members shall make every effort possible to attend meetings. At such a time that a member knows of a potential absence they shall let the Clerk know as far in advance as possible.
- 3.6 **Conflict of Interest.** Members have a responsibility to determine whether they have a conflict of interest and, when needed, act in accordance with the State and Local Government Conflict of Interests Act § 2.2-3100 et seq. Code of Virginia. Any member may request a “Conflict of Interest Opinion Letter” from the Commonwealth Attorney prior to hearing an application at a Planning Meeting. The request shall be made in the manner described in Section 2.2-3121(B) of the Code of Virginia.
- 3.7 **Required Filings.** Members are required to file Disclosure of Real Estate Holdings and Conflict of Interest paperwork by a set deadline each year. The Town Clerk will distribute the required paperwork and assist the members with submitting this information back to the Virginia Conflict of Interest and Ethics Advisory Council.
- 3.8 **Resignation.** A member who chooses to resign shall submit a written correspondence to the Town Clerk indicating the decision to resign and the effective date of resignation. Any member who misses more than three (3) consecutive meetings or is absent from four (4) meetings within any 12-month period and who has failed to respond to either the Clerk or the Chair regarding the absences, has by their actions indicated that they are no longer interested in serving and this action shall be considered a resignation.
- 3.9 **Removal.** Any member may be removed for acts of malfeasance. In the event a member is accused of malfeasance, the information shall be delivered to the Clerk of the Town Council. The Town Council would consider the matter and take any action to remove a Planning Commission member for malfeasance.
- 3.10 **Application to Serve.** Any person who desires to serve on the Planning Commission shall complete the Town of Wytheville Application. The application to serve on a Town Board or Committee is available on the Town website. <https://www.wytheville.org/index>. Upon such time that a vacancy exists, or an appointment is required, the Town Clerk shall compile the received applications for the seat and prepare the applications for the Town Council’s consideration.
- 3.11 **Appointments.** The Town Council will consider the applications and make the appointment for the members to serve on the Planning Commission.

- 3.12 **Onboarding and Training.** At such a time that a member is appointed, the Planning Director will schedule a new member orientation and assist with any onboarding activity which may be needed prior to service on the Board. New members are required to attend the Planning Commissioner Training within two (2) years of appointment.
- 3.13 **Compensation.** Members may be compensated at the discretion of the Town Council for services or actual costs incurred. The current compensation is \$75 a month, for each regular meeting attended.

#### **ARTICLE IV – OFFICERS**

- 4.1 **Election.** Election of officers for the Planning Commission shall occur every year at the Organization Meeting. The term shall be one year. The Commission shall elect a Chair and a Vice-Chair, and the nomination of officers shall be made from the floor. A candidate receiving a majority vote of the membership of those present, and voting shall be declared elected. The Clerk to the Planning Commission shall be an employee of the Town who is assigned at the direction of the Town Clerk.
- 4.2 **Duties.** Duties of elected officers are determined by the Commission and subject to change as needed and determined by the Commission. The guidance below conveys the typical activities associated with each role.
- 4.3 **Chair.** The Chair shall preside at all meetings and hearings of the Commission, appoint committees as necessary, administer oaths and compel the attendance of witnesses, decide all points of order or procedural questions, and maintain order within the meetings, call special meetings when needed and cancel meetings when needed. When needed by the staff, assist with agendas and correspondence.
- 4.4 **Vice-Chair.** The Vice-Chair shall act in the absence or inability of the Chair to act.
- 4.5 **Clerk to the Commission.** The Clerk to the Commission shall keep the minutes and records of the Commission's proceedings, including the date, time, and location of the meeting. Record members absent or present. Compose a summary of the discussion, matters proposed, deliberated, and decided. Record votes taken and outcomes. Compile meeting minutes for review and approval. Maintain all records and applications. Coordinate with town staff who are presenting or preparing for meetings. Prepare and be responsible for the publishing of advertisements relating to meetings and public hearings in accordance with State law. Send out public hearing and other types of notices required by the Commission, town ordinances and the Code of Virginia. Prepare meeting packets and communicate official correspondence for the Commission. Notify the Town Clerk of any vacancy on the Planning Commission. Distribute records of the Commission membership.

## **ARTICLE V – MEETINGS, AGENDAS, APPLICATIONS BEFORE THE COMMISSION**

- 5.1 **Meeting Location.** Meetings shall be held at the Town Municipal Office, Town Council Chambers, 150 East Monroe Street, Wytheville, VA 24382. The mailing address is P.O. Box 533. Contact phone is 276-223-3353. If required, the Chair may determine, prior to a meeting, that the location shall be changed, and the change of location shall be advertised in any required public notices for the meeting and posted on the building the day of the meeting.
- 5.2 **Open Meetings.** Meetings shall be open to the public, unless a closed meeting is scheduled by the Chair and approved by the Town Attorney prior to the meeting and qualified in accordance with the Virginia Freedom of Information Act. Records of the meeting shall be made available to the public in accordance with the Virginia Freedom of Information Act (FOIA), § 2.2-3707 et seq. Code of Virginia.
- 5.3 **Organizational Meeting.** The Planning Commission will hold an organizational meeting in January of each year to review and approve these Rules of Procedure, set the regular meeting day and time for the following year and elect officers for the following year. In the event of inclement weather or unforeseen circumstances, the organizational meeting can be rescheduled, and operations shall continue until the organizational meeting can be held.
- 5.4 **Regular Meetings.** The Planning Commission regular meeting day is the second Tuesday of the month at 6 p.m. The regular meeting day shall be considered at least once a year at the organizational meeting and can be amended at any time upon consideration and a vote of the Commission. Regular meetings will only be held when an application has been submitted for consideration or when it has been determined by the Clerk or the Chair that a meeting is required. The Commission shall make every attempt to meet at least every two months.

The Commission, by resolution adopted at a regular meeting, may also fix the day or days to which any meeting shall be continued if the Chairman, or Vice-Chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such findings shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting shall be conducted at the continued meeting and no further advertisement is required. The Commission shall cause a copy of such resolution to be inserted in a newspaper having general circulation in the locality at least seven days prior to the first meeting held pursuant to the adopted schedule.

- 5.5 **Training Meeting.** Where possible, the Commission may convene each year for a planned training event. The training meeting shall be used to update the Commission on ordinance amendments, laws and topics related to planning and zoning and/or related changes to the Code of Virginia that may affect the Commission.

- 5.6 **Continued Meetings.** If the Commission determines that a meeting shall be continued to either allow for additional time or research for a particular matter under consideration or for any other reason, the Commission may recess and continue a meeting or lay an item on the table for continued discussion at a future meeting.
- 5.7 **Special Meetings.** Special meetings of the Commission may be called by the Chairman or by two members upon written request to the Clerk. The clerk shall mail to all members, at least five days in advance of a special meeting, a written notice fixing the time and place of the meeting and the purpose thereof. Written notice of a special meeting is not required if the time of the special meeting has been fixed at a regular meeting. Notice of special meetings shall be given to the public, pursuant to the Virginia Freedom of Information Act (FOIA), § 2.2-3707 et seq. Code of Virginia.
- 5.8 **Public Hearings.** Public hearings shall be held after public notice has been given in accordance with 15.2-2204 of the Code of Virginia, 1950, as amended. The Town of Wytheville Public Hearing Policy shall be used to facilitate public hearings before the Commission.
- 5.9 **Meeting Agenda.** The meeting agenda shall be determined by the Chair in consultation with the Clerk to the Commission. The meeting agenda shall consist of the consent agenda and other business that needs to be heard. The general order in the hearing of any application shall be Staff Report, Applicant Report, Opening of the Public Hearing for public comment, Public Comments, Closing of the Public Hearing and Time for discussion among the Commission. Any person can be called back up to the podium by the Chair to answer questions or give additional testimony when called and recognized by the Chair. The Chair reserves the right to allow or disallow further comment or testimony after the Public Hearing has ended.
- 5.10 **Applications.** The application deadline for an item to be considered by the Commission shall be the 5<sup>th</sup> day of the month for the item to be heard at the next month's regular meeting date. The applicant shall utilize the Town of Wytheville application portal at <https://www.wytheville.org/index> to submit the application. At such a time that a complete application is received by Town Staff, the staff will include the item on the next agenda, when such an item to be heard can meet the time required for the Public Hearing Policy. The application will be included in the Commission packet for consideration.
- 5.11 **Meeting Packet.** The Clerk to the Commission shall distribute the meeting packet. The packet shall consist of the agenda, the previous meeting minutes and supporting information for items under consideration. The packet shall be delivered to the Commission members at least five (5) days prior to the meeting date.
- 5.12 **Records.** Records associated with the Commission shall be kept in the Department of Planning and Zoning, and/or the assigned file storage location for

Town records. The Town Clerk shall be notified of any Freedom of Information Act requests and/or other requests for meeting minutes and applications heard by the Commission. Requests for information shall be processed in accordance with the Town Freedom of Information Act Policy.

- 5.13 **Abstaining.** Any member has the right to abstain from participating in a meeting agenda item and/or voting on an application before the Commission, when they have determined that they have a Conflict of Interest in accordance with the State and Local Government Conflict of Interest Act §2.2-3100 Code of Virginia. When abstaining, and prior to the Commission taking up the agenda with respect to which the member has a conflict, the member shall state that they are abstaining from the discussion and/or the vote, and the basis for the decision to abstain. The terms actual conflict of interest or perceived conflict of interest shall be used when announcing the right to abstain.
- 5.14 **Appeals.** Any person or persons jointly or severally aggrieved by any decision of the Planning Commission may file a petition with the Clerk to the Town Council.

## **ARTICLE VI – CODE OF CONDUCT & ETHICS**

- 6.1 In recognition that maintaining integrity and dignity is essential for maintaining high levels of public confidence in our institutions of government, every member of the Commission shall pledge to adhere to the following code of conduct and ethics. Members shall adhere to the following.
- Maintain a positive environment at meetings and display an attitude of courtesy and consideration toward colleagues, citizens, and staff during the meetings.
  - Avoid the use of abusive, threatening, or intimidating language or gesture to include disrespectful comments, body language or activity that conveys a message of disrespect or lack of interest.
  - Discharge duties and responsibilities without favor or prejudice toward any person or group. Avoid the appearance of impropriety and do not convey the impression that the member is in a position to influence outcomes or to personally benefit from any outcome.
  - Members and family members shall not accept gifts, loans, payments, favors, services, or anything else of value in exchange for any decision or influence a member may have on the Commission.
  - Members shall refrain from discussions about upcoming agenda items and encourage others who wish to discuss the matter to attend the meeting so that all discussions can be held in the public meeting. Any written, telephone or electronic communication regarding a matter on a Planning Commission meeting shall be forwarded to the clerk who shall make the record available to the public body.
  - Members shall refrain from discussing Planning Commission agenda items with other members prior to the official date and time the item is scheduled to be heard and members shall not hold a public meeting (more than three persons engaged) at any time other than that which has been identified as regular Planning Commission meeting dates.
  - When questioned about a decision of the Planning Commission, members shall publicly acknowledge the adopted position and professionally present the outcome, even if the member was in opposition to the vote or outcome.

## ARTICLE VII - QUORUM AND ACTIONS

- 7.1 **Quorum.** A majority of the membership of the Commission shall constitute a quorum. In the event that a quorum cannot be reached, the Chair reserves the right to reschedule a meeting to the next month or to another date in the same month that shall accommodate convening a quorum and the needs of any public hearing requirements.
- 7.2 **Required Absence.** No action shall be taken by the Commission unless there shall be present at least a quorum, provided, however, that the temporary absence from the meeting room of members sufficient to constitute a quorum shall not be deemed to prevent the hearing of presentations or the discussion of matters submitted. The Clerk shall suggest the absence of a quorum prior to the taking of any action by the Commission.
- 7.3 **Remote Participation in Meetings.** Members may participate in meetings of the Committee by electronic means as permitted by Virginia Code §2.2-3708.2 and in compliance with the Town of Wytheville Electronic Participation Policy. This applies to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.

Whenever an individual member wishes to participate from a remote location, the law requires a quorum to be physically assembled at the primary or central meeting location, and there must be arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

When such individual participation is due to an emergency or personal matter, such participation is limited by law to two meetings or 25 percent of the meetings of the public body per member each calendar year, whichever is fewer.

A member wishing to participate from a remote location in a meeting of the Commission shall notify the Chair on or before the date of the meeting that the member is unable to attend, identify with specificity the nature of the personal matter. The Clerk shall record in the minutes the specific nature of the personal matter and the remote location from which the absent member participated.

During a disaster and/or declared state of emergency from the Governor, and it is impracticable or unsafe for a quorum of the Commission to assemble in one location then the Commission may conduct its meetings electronically to assure the continuity of its government. (See Code of Virginia §2.2-3708.2(A)(3), §44-146.17, §15.2-1413, and §44-146.21.)

- 7.4 **Voting.** Votes shall be taken on all motions made and seconded. Roll call votes are required for applications heard by the Commission. After the vote, the Chair



shall state the results of the vote.

- 7.5 **Majority Rules.** A majority of those present and voting shall be considered a majority of the vote and will be required to pass a vote under consideration.
- 7.6 **Restating the Question.** The Chair shall restate the question prior to the taking of a vote, however, the Chair may request that another member restate the question if in the Chair's opinion that will expedite the decision thereof.
- 7.7 **Unanimous Consent.** Where no formal action is required, and no objection is heard, a request of a member shall be deemed a request of the Commission without further action, when such request is made at a meeting with a quorum present.
- 7.8 **Tie vote.** A tie vote fails. No tiebreaker is appointed. Failed votes resulting from the lack of a quorum due to Virginia Conflict of Interest Act actual abstentions may, in rare circumstances, be permitted to move forward pursuant to Virginia Code Sec. 2.2-3112(D).
- 7.9 **Second, discussion, vote.** A second to a primary or substitute motion is required to formally discuss and/or vote upon the motion.
- 7.10 **Motion to rescind.** A motion to rescind may be made with the intent to change an action voted upon at an earlier meeting. The motion to rescind may be made by any member of the Commission. If advance written notice is provided in the agenda with the intent to make a motion to rescind, then a simple majority in favor is required for it to be successful. If no advance written notice is provided, then it shall succeed only if two-thirds (2/3) of the members present vote in favor of the motion to rescind. Any attempt to rescind a motion related to a land use application shall first be considered by the Town Attorney, prior to any action taken.
- 7.11 **Abstention from Casting Vote:** All members of the Commission present shall vote upon all questions that a vote must be taken, unless excused by the Commission (unless the member has an immediate personal or financial interest in the matter). Requests by a member to abstain from voting or to announce the intention not to vote because of personal or other financial interest shall be made to the presiding officer prior to the placing of the matter before the Commission for a vote. The Commission need take no further action to allow the abstention in the case of a member's personal or other financial interest in the matter, consistent with the requirements of the Virginia State and Local Government Conflict of Interests Act.

A member may also abstain from a vote without further action if the member believes that voting upon a matter may create the appearance of a conflict of interest. The member shall state the specific reason that the member believes the

appearance of a conflict of interest exists.

Additionally, a member may abstain from a vote to approve meeting minutes without further action if the member did not attend the meeting for which minutes approval is being considered.

The Commission shall consider a request to abstain from a vote for other reasons and may grant the request if a majority of the members present (excluding the member requesting the abstention) votes in favor of granting the request.

## **ARTICLE VIII - ORDER IN THE CONDUCT OF BUSINESS**

- 8.1 **Persons Addressing the Board.** The time for addressing the Commission will be monitored, and the Commission shall limit the speaking time at its discretion. Insofar as is practicable, people addressing the Commission shall furnish the Clerk and members of the Commission with a written copy of their remarks.
- 8.2 **Applicant Testimony.** In the hearing of any application the Commission shall offer an equal amount of time in the hearing of the case. Town staff presenting the application shall be given time on the agenda to present the application or issue. The applicant may appear on his own behalf at the public hearing or be represented by counsel or an agent.
- 8.3 **Public Hearings.** In those instances where persons are addressing the Commission, without having first been placed on the agenda, these persons shall limit their remarks as follows:
1. Person speaking for himself or his immediate neighborhood - Five (5) minutes.
  2. Person speaking for an organization whose membership is representative of an entire group – Seven (7) minutes.
  3. Person speaking for an organization whose membership is representative of the entire town – Ten (10) minutes.
- 8.4 **Recognition.** Shall be given by the Chair, or the Vice-Chair in the Chair's absence. No person shall address the Commission without having first been recognized and coming forth stating their name and address. When all public testimony has concluded, and the Commission is considering and discussing the matter, no person shall thereafter be recognized to address the Commission unless requested to do so by the Chair.
- 8.5 **Cumulative or Repetitive Testimony.** Shall not be permitted on any matter, and persons of the same position as a previous speaker shall state their name and the position with which they agree.

- 8.6 **Questions.** Questions by Commission members shall be reserved insofar as possible for the end of a presentation to avoid interrupting the speaker, disrupting the time-keeping process and duplicating ground the speaker may cover.
- 8.7 **Discussion and Debate by the Commission.** Shall be conducted following the presentation of testimony on the item of business pending. Members shall not speak to the item until recognized by the Chair, members shall not speak more than ten minutes at one time, nor more than twice upon the same question, without the permission of the Chair. A member who has spoken to the item shall not again be recognized until each other member desiring to speak shall have an opportunity to speak. After the Commission shall have acted, any member shall have the right to state a protest against the action, and his/her reasons therefore, for a time not to exceed two (2) minutes. Members of the audience shall not be allowed to address the Commission unless clarification is requested by the Chair.

### **ARTICLE IX - DECORUM**

- 9.1 **Decorum of Members.** Shall be maintained in order to expedite the disposition of the business before the Board. Questions and remarks shall be limited to those relevant to the pending business. Members shall not converse with other members or with other persons in any manner having a disturbing effect on the conduct of business. Consultation with staff about the meeting is permitted, as necessary. Members shall address all remarks to the Chair as the presiding officer.
- 9.2 **Decorum of Other Person(s).** Shall be maintained by the Chair, who may request such assistance as appears necessary. Persons addressing the Commission shall limit their remarks to those relevant to the pending items and to answering questions. They shall address the Commission, unless answering an individual member's questions. The Chair, or Vice-Chair in the Chair's absence, shall call the speaker to order, if out-of-order remarks or other indecorous conduct persists, and may order the speaker from the lectern. The order with gavel, if not heeded, will then cause a Wytheville Police Officer to carry out the order. Persons whose allotted time to speak has expired shall be warned by the Chair, or the Vice-Chair in the Chair's absence, to conclude in one minute, after which such person shall leave the lectern, unless he is asked to remain to answer questions from the Chair. No person in attendance shall be allowed to voice remarks except as recognized by the Chair. Groups in the audience creating an atmosphere detrimental or disturbing to the conduct of the meeting will be asked to leave by the Chair. Taping of the meeting shall be permitted from the rear of the Council Chambers.

### **ARTICLE X – FREEDOM OF INFORMATION ACT REQUESTS**

For the purposes of complying with Freedom of Information Act (FOIA) requests for Planning Commission public records, the Town shall be considered the custodian for committee member public record transmissions including those sent and received

through the Town's email network.

- A.** Upon the expiration of their term in office, a member shall provide electronically copies of all their public records other than those sent and received through the Town network and related to the transaction of public business on a thumb drive provided by the Town Information Technology Department. This thumb drive will be provided to the Town's FOIA Officer. The Town's FOIA Officer will use the copies to fulfill all further FOIA requests for member emails and will maintain the copies in accordance with the Virginia Public Records Act. For purposes of this Memorandum, "public business" encompasses those matters over which the Commission has supervision, control, jurisdiction or advisory power.
  
- B.** Members shall comply with the Library of Virginia's Records Retention Schedule pursuant to the Virginia Public Records Act.

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XXXXXXXXXX, Chair  
Wytheville Planning Commission  
Adopted: XXXXXXXXXXXX