

**BY-LAWS OF THE LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION
LAWRENCE, KS**

ADOPTED JUNE, 1969

AMENDED 10.23.02, 02.11.04, 03.17.04, 08.30.06, 09.24.07,
02.27.08

LATEST AMENDMENT: 02.23.09

ARTICLE I
NAME AND MEMBERSHIP

SECTION 1. NAME. The name of this organization, established by Ordinance No. 3951 of the City of Lawrence, Kansas, and Resolution No. 69-8 of Douglas County, Kansas, shall be the Lawrence-Douglas County Metropolitan Planning Commission. The term "Commission" in the following sections shall mean the Lawrence-Douglas County Metropolitan Planning Commission.

SECTION 2. MEMBERSHIP. Membership of the Commission shall be as established by the above-cited joint ordinance/resolution, which specifies the number, method of appointment, and term of office.

ARTICLE II
PURPOSE

SECTION 1. BY-LAWS. The purpose of these by-laws is to establish rules for the internal organization of the Commission and for procedures of operation.

SECTION 2. COMMISSION. The function, powers, and duties of the Commission are as authorized by state law and by the joint ordinance/resolution establishing the Commission. With some exceptions, actions of the Commission are recommendatory only and subject to approval by the appropriate governing body, the City Commission or the Board of County Commissioners. The Commission, however, adopts its own rules and policies for procedure, consistent with its powers.

ARTICLE III
ORGANIZATION

SECTION 1. OFFICERS. The officers of the Commission shall be a chairperson, a vice-chairperson, and a secretary. The chairperson and vice-chairperson shall be elected by the Commission at its regular meeting in June of each year. Their term of office shall be one (1) year. No person may serve more than two (2) consecutive terms. The Director of Planning & Development Services or his/her selected representative shall serve as secretary to the Commission.

SECTION 2. CHAIRPERSON. The chairperson shall preside at all meetings of the Commission unless the chairperson designates someone to preside in his/her stead. The chairperson shall appoint all committees. The chairperson shall perform all the duties assigned to his/her office by law and by the city and county governing bodies, and shall have such usual powers of supervision and management as pertains to the office of chairperson.

SECTION 3. VICE-CHAIRPERSON. The vice-chairperson shall act as chairperson in the absence of the chairperson. In the event the office of chairperson becomes vacant, the vice-chairperson shall succeed to that office for the unexpired term, and the Commission shall select a new vice-chairperson for the unexpired term at the next regular meeting.

SECTION 4. SECRETARY. The secretary shall prepare the agenda and the order of business for each regular meeting in consultation with the chairperson. The secretary shall keep the Commission informed on all communications. The secretary shall record the minutes of all meetings and shall provide copies to all members of the Commission, the governing bodies and other public agencies involved. The secretary shall act on behalf of the Commission in the following matters, provided that matters shall first be presented to the Commission if there appears to be a serious conflict of interest, public controversy, or the like:

- a. Represent the Commission on planning matters at all meetings of the governing bodies.
- b. Prepare or present plans, policies, or procedures established by the Commission.
- c. Prepare the annual budget and review it with the Commission.
- d. Accept and prepare all routine communications on planning matters.
- e. To give or serve all notices required by law, these by-laws or adopted procedures.

Further, the secretary shall be responsible to advise the chairperson directly, and the Commission as a whole, on matters regarding annual requirements for document reviews, i.e. HORIZON 2020, or its successor, and deadlines and content requirements for submission of various reports and documents to local governing bodies, the State of Kansas, and Federal offices.

SECTION 5. COMMITTEES. The Commission shall meet as a "Committee of the Whole" to consider informally issues as determined by the Commission. The Vice Chair shall preside at these meetings and shall work with the Chair and Secretary to set agendas and meeting times. Other ad-hoc committees may be appointed by the Commission Chair, as necessary to study, facilitate, and/or make recommendation of specific issues. Such appointments will include purpose, members, and presiding officer. Planning Commission members shall be appointed by the chairperson to serve on the ad-hoc committees. No ad-hoc committee shall have more than four (4) planning commissioners appointed to it.

SECTION 6. ATTENDANCE. Any member who is absent from three (3) consecutive regular meetings shall have such absence reported by the chairperson to the governing bodies. Members who accrue absences beyond a total of four (4) in any Commission year should consider relinquishing their appointments.

SECTION 7. PLANNING OFFICE. The Planning office shall provide professional and technical assistance to the Commission. Staff planners shall present recommendations of the Commission to the governing bodies. Recommendations of the professional staff, minutes of the Commission meeting, and other relevant material shall be presented to the governing bodies with the recommendations of the Commission. The Planning office shall also provide professional and technical assistance to both governing bodies and to other boards, commissions and agencies as is deemed appropriate. The Planning office shall be the official custodial agency for minutes, records, files, and materials relating to Commission business.

ARTICLE IV
MEETINGS

SECTION 1. REGULAR MEETINGS. Regular monthly meetings shall be held twice a month, typically on the fourth Wednesday of the month and on the Monday preceding the fourth Wednesday of the month, unless otherwise designated on the official yearly meeting calendar adopted annually in November of the previous year. The public hearing portion of the regular monthly meetings shall be commenced at the first meeting date and recessed, at the conclusion of that meeting, until 6:30 p.m. on the second monthly meeting date.

The first regular monthly meeting shall be held on either a Monday or a Thursday, and shall commence at 6:30 p.m. This meeting shall conclude by 10:30 p.m., unless the ending time has been extended by a simple majority vote of the commission. The second regular monthly meeting shall be held on a Wednesday. The meeting time for this second regular meeting shall be from 6:30 p.m. to 10:30 p.m. The ending time for either regular meeting may be extended by a simple majority vote. Meeting extensions shall be to a time certain or until the conclusion of the current agenda item under discussion but in no case shall the first meeting extension be for more than one hour beyond the published ending time. A meeting may not be extended more than one hour past its scheduled ending time except by a vote of 7 or more commissioners. The chair can extend the meeting only long enough to establish a date, time and location for completion of the published agenda items.

Regular monthly meetings shall be held in the City Commission meeting room on the first floor of City Hall, 6 E 6th Street, in Lawrence, unless another location is published in the meeting's legal notice.

SECTION 2. CORRESPONDENCE. Correspondence received from the applicant, staff or public after the staff report packet has been originally posted will be posted to the website by 2:00PM on the Monday of the first meeting. Questions submitted from the public in regard to items on the first regularly scheduled meeting shall be provided to staff at least 48 hours prior to the meeting to allow time for responses to be prepared and posted by the 2:00PM deadline above.

SECTION 3. SPECIAL MEETINGS. Special meetings may be called by the chairperson and shall be called by the chairperson if requested by at least six (6) members of the Commission. Notice of special meetings shall be given by the Planning Director not less than five (5) days prior to the meeting. Published notice shall state the purpose, time and location of the meeting.

SECTION 4. AGENDA. One agenda shall be published for each month's regularly scheduled meetings. This agenda shall clearly identify the agenda items under consideration at each of the two regularly scheduled monthly meetings. The meeting agenda shall be available to the public ten days prior to the first regular monthly meeting and shall be posted on the department's website for ease of access. Agenda updates will be posted to the website daily by 5:00PM (if needed).

SECTION 5. QUORUM. A quorum shall consist of six (6) members as provided by the joint ordinance/resolution establishing the Commission. In the absence of a quorum, the members present shall reschedule the meeting and absent members shall be notified by the secretary.

ARTICLE V
Conduct of Meetings

SECTION 1. PARLIAMENTARY AUTHORITY. Meetings shall be conducted according to these by-laws and the Commission's adopted Rules of Procedure. Rules of Procedure can be suspended by a motion that is supported by a second, and a two-thirds majority vote in favor of the motion. Rules of Procedure are an addendum to the By-Laws.

SECTION 2. ORDER OF BUSINESS. The order of business shall be as follows:

The order of business for consideration at the first regularly scheduled monthly meeting shall be as follows:

- a) Call to order
- b) minutes
- c) staff and committee reports
- d) communications:
 1. public (written)
 2. planning commissioners or other boards and/or commissions (written or oral)
 3. staff (written or oral)
 4. declaration of intent to abstain on specific agenda items (oral)
 5. requests for deferral
- e) election of chairman and vice-chairman [annually at the June meeting]
- f) consent agenda items
- g) items pulled from consent agenda
- h) plats which require public hearing on variance requests
- i) public hearing items that are:
 1. associated with non-public hearing items
 2. annexation referral requests
 3. minimum maintenance road requests
 4. City or County special use permits
 5. text amendments to zoning or subdivision regulations
 6. comprehensive plan amendments
- j) ex parte communications disclosed for each separate quasi-judicial item (oral).
- k) recess public hearing
- l) old business [items returned for reconsideration by a governing body] and miscellaneous items

The order of business for consideration at the Wednesday night regular meeting shall be as follows:

- a) Call to order
- b) communications:
 1. staff (written or oral) response to questions raised by the public or commissioners
 2. declaration of intent to abstain on specific agenda items (oral)
- c) reconvene public hearing
- d) public hearing items that are:
 1. associated with non-public hearing items
 2. minimum maintenance road requests
 3. City or County special use permits
 4. comprehensive plan amendments

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5. text amendments to zoning or subdivision regulations
 - e) ex parte communications disclosed for each separate quasi-judicial item (oral).
 - f) committee or commission generated plans or rezonings
 - g) old business or miscellaneous items
 - h) close public hearing
 - i) public comments
 - j) adjournment

* public and non-public hearing items that are related to a development project shall be placed on the same meeting's agenda in consecutive order under the regular agenda.

Any matter or subject not appearing on the agenda shall be considered under Miscellaneous Items if a majority of the Commission members vote consideration. Approval of consideration shall be based on a finding that a review or presentation would be in the best interest of the general public and not contrary to the provisions of public notice.

SECTION 2A. AGENDA MANAGEMENT BY STAFF. Items on the regular agenda shall be ordered according to Staff's estimation of various factors including: location within community [staff will attempt to schedule items within same area/neighborhood on the same night to accommodate public involvement]; staffing assignments [to minimize individual staff attendance at both meetings]; applicant's ability to attend; and balancing number of items between the two meetings. This shall apply to all Items, regardless of previous deferrals, except according to specific direction from the Planning Commission.

SECTION 2B. ITEMS PULLED FROM CONSENT AGENDA. An item may be removed from the consent agenda after the meeting has been called to order for one of three actions: approval by separate voice vote; clarification of a comment or recommendation in the staff report, when such clarification will take 5 minutes or less; or, for a lengthy discussion [one greater than 5 minutes] of a comment or recommendation in the staff report which involves presentation by the applicant, or numerous questions by the commission.

When an item is pulled only for a separate voice vote, it shall be considered immediately following action taken on the remainder of the consent agenda. An item pulled for clarification shall be considered after scheduled non-public hearing items are considered. An item pulled for lengthy discussion by the applicant shall, at the chairperson's discretion, be placed at the end of the commission agenda, prior to consideration of miscellaneous items OR on the following month's meeting agenda. An item requested to be pulled for lengthy discussion by a planning commissioner shall be placed at the end of the non-public hearing portion of the agenda.

SECTION 2C. DEFERRALS REQUESTED BY THE APPLICANT. Deferral requests that are made while a project is under review [prior to staff report posting on the website] will be noted on a revised agenda as 'Deferred' and staff will attempt to notify members of the public who have expressed interest in the project during the review period, as well as the media. Deferral requests made by the applicant after staff report posting and through the communications deadline shall be considered by the Commission under the Communications portion of the agenda. Such requests will be permitted only in cases of severe hardship or for the purpose of making a significant change to the original application and only with a majority vote of the Commission at the meeting. Such requests must be made in writing and must be submitted to Staff no later than 10:00AM on the day of the meeting.

The Commission has the authority to deny the deferral request on the grounds that such request was not made in a timely fashion, that notice of deferral has not been given to the adjacent property owners, or that the applicant is not seeking deferral in order to make significant changes to the original application.

SECTION 2D. DEFERRALS/TABLING INITIATED BY THE COMMISSION. The Commission may table or defer any item, including after the public hearing has been closed, when it is determined by the Commission that such action would be advantageous to the Commission for responding to issues raised and for gathering adequate information to make a well-informed recommendation.

SECTION 3. STAFF REPORTS. Staff reports on all agenda items shall be prepared and posted to the website five (5) calendar days prior to the day of the first meeting. Members of the public can sign up to receive automatic e-mail notification regarding staff report postings and updates.

SECTION 4A. APPEARANCE BEFORE THE COMMISSION. Petitioners or their representatives, members of the community at large, or individuals or their representatives who feel that they will be affected by any action may appear before the Commission to present views and statements either for or against agenda items. The public may address their comments or concerns to the Commission in person or in writing. Except as otherwise determined by the chair, the following time limits will apply: Applicant - 10 minutes per item up to a maximum of 30 minutes; Members of public representing themselves - 3 minutes (although any member of the public can give 2 minutes of his/her time to another member of the public, such additional time can not cause the total amount of time to exceed 10 minutes); Members of public representing a recognized organization or group of individuals - 5 minutes. The Chairperson may at his/her discretion change the length of presentation or discussion to ensure the orderly conduct of Commission business provided that the decision of the Chairperson may be overridden by a majority vote of those commissioners present.

After a motion to close the public record has been approved on a public hearing item, additional public testimony will not be taken with the exception that a Commissioner, after recognition by the Chairperson, may ask a speaker for clarification on a point raised. Such action shall be noted in the minutes and the returning speaker shall be instructed to reply only to the question raised.

SECTION 4B. INTRODUCTION OF UNREVIEWED INFORMATION. An applicant's written response to the recommendations in the Staff Report will be accepted by planning staff until 2:00PM on the business day prior to the day of the meeting on which the agenda item will appear. The applicant may present new information at a regular meeting under three circumstances:

- (a) The information has been reviewed by Staff and Staff is prepared to respond;
- (b) The information is in direct response to recommendations in the Staff Report; or
- (c) The information is requested by a Commissioner in the course of the regular meeting.

In all other cases in which the applicant wishes to introduce new information, the applicant should make a timely request for deferral of the Item in accordance with Article V, Section 2C. If the Item stays on the agenda, Staff should notify the Commission if any attempt is made to introduce new information not complying with (a), (b) or (c) as described above. In such a

case, the Chair shall bar introduction of the new information and the Commission shall consider the Item without consideration of the new information.

SECTION 4C. WRITTEN COMMENTS FROM THE PUBLIC. Public comments on agenda items for the regularly scheduled monthly meetings will be accepted by planning staff until 10:00 a.m. on the day of the first regularly scheduled monthly meeting. This deadline provides time for correspondence to be posted to the website by the 2:00PM deadline established in Article IV, Section 2.

SECTION 5. COMMISSION ACTION. The Commission shall take action on each item presented at the conclusion of discussion of that item.

SECTION 6. MOTIONS. Motions before the Commission shall be restated by the Chairperson before a vote is taken.

SECTION 7. VOTING. Voting on non-public hearing items and for public hearing items shall be by a show of hands. Each member's vote shall be recorded by the Secretary or his/her designee on the official voting sheet. After a vote is taken the Chairperson or the Secretary shall announce the votes cast in favor of the motion, in opposition to the motion and whether the motion passed or failed.

For non-unanimous votes, the minutes shall note the members voting in favor of a motion, in opposition to a motion, and those abstaining from voting on the motion as well as the vote tally. For example, an 8-1-1 vote would be recorded as Commissioners a ,b ,c ,d ,e ,f ,g ,& h voted in the affirmative, Commissioner x voted in opposition to the motion and Commissioner y abstained from voting.

SECTION 8. ABSTENTION. It is the duty of each member to vote on each issue, but that member may abstain. No member shall vote on an issue in which he or she has a conflict of interest. During an item for which a member has declared an abstention because of a conflict of interest that member shall physically leave the meeting room.

SECTION 9. RECORD OF PROCEEDINGS. The secretary shall record the minutes of each meeting as a matter of public record and shall present such minutes to the Commission for approval.

A written voting log shall be kept for each motion. Included in this log shall be: the commissioner who made the motion; the commissioner seconding the motion; any commissioners abstaining from voting on the motion; the commissioners voting in favor of the motion; and the commissioners voting in opposition to the motion.

Draft minutes will be stamped as DRAFT and will be forwarded to the Commission when the staff report is posted to the website. Revisions may be made to the minutes at any time prior to approval of said minutes at the next regular meeting. Due to timing of the meetings, draft minutes are distributed to the Governing Bodies prior to approval by the Planning Commission.

ARTICLE VI
MATTERS TO BE CONSIDERED

SECTION 1. ITEMS TO BE CONSIDERED. The Commission shall consider matters relating to the Comprehensive Plan, including zoning, subdivision, and other regulatory measures relating to the Comprehensive Plan and the physical development of the city and county, as itemized in Section 2, below.

The Commission shall not consider any proposal, request, application, or plat which is contrary to or in conflict with provisions of the Kansas Statutes Annotated, as amended, or contrary to or in conflict with city ordinances or county resolutions.

SECTION 2. ITEMIZED LIST. A specific list of matters to be considered by the Commission is as follows:

- 1) Any general improvement plan pertaining to the Regional Planning Area;
- 2) Rezoning proposals, Conditional Use Permits, Special Use Permits, and Subdivision plats;
- 3) Annexation proposals;
- 4) Comprehensive Plan amendments or revisions;
- 5) Zoning and Text Amendments to adopted ordinances and resolutions;
- 6) Any proposal embraced in the Comprehensive Plan;
- 7) Establishment of building setback lines;
- 8) Capital Improvement Plans and Transportation Improvement Plans or other transportation planning documents and amendments to these plans, and;
- 9) Such other matters as the Director may bring before the Commission or that the governing bodies may assign to the Commission or the Commission shall deem relevant or appropriate.

ARTICLE VII
CODE OF CONDUCT

Section 1. *Definitions*:

A. QUASI-JUDICIAL CONDUCT. A Planning Commission is expected to act like a judge or function in a "quasi-judicial" manner when reviewing matters that affect a specific party's land use rights. Quasi-judicial conduct should be above reproach and within the law. Quasi-judicial conduct demands that commissioners make decisions based on "procedural due process." Procedural due process includes the following:

- Appearance of fairness of the Commissioner
- Proper notice of the hearing;
- A proper hearing process;
- A complete record; and
- A decision that meets legal requirements and is based on the record.

B. EX PARTE COMMUNICATIONS. Ex parte communications are private communications, written, electronic, oral, or other by or with any commissioner that is not subject to public review and the hearing process.

C. ACTIVE REQUEST. An item is an active request until such time as the Planning Commission has completed deliberations on the item, forwarded a recommendation to the Governing Body(ies) and a 'final action of approval' has been taken. A 'final action of approval' shall be construed to mean, for the purposes of this document, the adoption of an ordinance or resolution by the Governing Body(ies) to enact a zoning or text change, the filing of a plat or development plan at the Register of Deeds, the denial of a request, or the issuance of a building permit based on an approval of an "active request." An item is an active request at least from the time that any filing or request is received by the Planning Office, or any action has been initiated by the Planning Commission or by a Governing body.

Section 2. EX PARTE COMMUNICATIONS ALLOWED. Communications are not in violation of the ex parte disclosure requirements if they do not pertain to specific sites or properties, and/or if they solely involve general planning, procedural or policy issues.

Section 3. DISCLOSURE OF EX PARTE COMMUNICATIONS. Any ex parte communication shall be disclosed at any meeting as part of the Communications section and at the beginning of each quasi-judicial item of the agenda or earlier. The Commissioner receiving the communication shall disclose the full nature of the ex parte communication including the identity of the individual(s) participating in the communications and any information obtained through the communications so that the applicant, staff or public is provided the opportunity to respond and/or rebut the information provided in the ex parte communication.

Section 4. REQUEST FOR ADDITIONAL INFORMATION BY COMMISSIONERS. The ex parte communication restriction shall not preclude any Commissioner from requesting additional information as long as the requests for information are in writing and a copy of the request and the response are forwarded to staff and made part of the public record on that quasi-judicial matter.

SECTION 5. EXEMPTION FROM EX PARTE RESTRICTIONS. Ex-parte communications and the disclosure requirements on this form of communication are not applicable to communications between planning commissioners. Limitations on commissioner-to-commissioner communications are covered under the Kansas Open Meetings Act.

Section 6. Conflict of Interest. A Commissioner shall not participate in, discuss or vote on a matter in which he or she has a conflict of interest or a substantial interest as defined by K.S.A. 75-4301a et seq. or is prevented by any applicable City or County resolution or policy. Any Commissioner having a conflict of interest or substantial interest with respect to an item before the Commission, shall physically leave the meeting room during the discussion and the vote on the item.

Section 7. Commissioners continue to be subject to the ex parte disclosure requirements until a 'final action of approval' has been taken on an "active request" as defined in Article VII, Section 1C.

ARTICLE VIII
AMENDMENTS

Section 1. These by-laws may be amended by a two-thirds vote of the Commission at any regular meeting, provided the members have been notified one (1) month in advance and the proposed amendment has been placed on the agenda.