

# CITY OF CUMBERLAND, MARYLAND

## *MUNICIPAL PLANNING & ZONING COMMISSION BYLAWS*

### ARTICLE I PREAMBLE

***Section 1.1. Creation.*** A Municipal Planning and Zoning Commission for the City of Cumberland shall be hereby established in accordance with Sections 2-101-2-105 (inclusive) of the Land Use Articles of the Annotated Code of Maryland, as amended, and vested with all of the powers and duties thereby conferred by the Land Use Articles of the Annotated Code of Maryland, the Cumberland Zoning Ordinance, and the Cumberland Subdivision Regulations.

***Section 1.2. Short title.*** The City of Cumberland Municipal Planning and Zoning Commission also shall be known and referred to as the **Cumberland Planning Commission**.

***Section 1.3. Composition.*** The Planning Commission shall be comprised of five (5) voting members and one (1) ex-officio (non-voting) member, who shall be a member of the Mayor and Council, appointed by the Mayor and Council. All regular members of the Planning Commission shall be residents of the City of Cumberland.

***Section 1.4. Term of membership.*** In accordance with Section 2-102 (c) of the Land Use Articles of the Annotated Code of Maryland, as amended, the term of each voting member shall be five (5) years with staggered appointments. The term of the ex-officio Mayor and Council member shall coincide with that member's term of elected office.

***Section 1.5. Removal from membership.*** In accordance with Section 2-102 (d) of the Land Use Articles of the Annotated Code of Maryland, as amended, members of the Planning Commission may, after a public hearing, be removed by the Mayor and Council for inefficiency, neglect of duty, or malfeasance in office. Once a decision to remove a member has been made, the Mayor and City Council, shall file a written statement of the reasons for said removal, which shall be made a part of the official minutes of the meeting.

***Section 1.6. Vacancies.*** In accordance with Section 2-102 (e) of the Land Use Articles of the Annotated Code of Maryland, as amended, vacancies occurring other than through the expiration of term shall be filled for the unexpired term by the appointing authority specified in Article I, Section 1.3 of these Bylaws.

***Section 1.7. Alternate Members.*** In accordance with Section 2-102 (f) of the Land Use Articles of the Annotated Code of Maryland, as amended, the Mayor and Council may appoint one (1) alternate member of the Planning Commission, who may sit on the Commission in the absence of any regular member. The alternate member shall be a resident of the City of Cumberland. When the alternate member is required to fill a regular member's position on the Commission or is otherwise unable to attend meetings for an

extended period of time, the Mayor and Council may designate a temporary alternate to sit on the Commission.

**Section 1.8. Consistency with the Land Use Articles of the Annotated Code of Maryland.** Whenever a conflict or discrepancy is determined to exist between the wording in these Bylaws and the applicable governing Section of the Land Use Articles of the Maryland Annotated Code, as may be amended, is found to exist, then the effective provisions of the Maryland Annotated Code shall govern and supersede the specific wording of these Bylaws, until such time as the conflict or discrepancy is eliminated. Where such conflicts are discovered to exist, the Planning Commission shall proceed to update and amend the Bylaws to eliminate said conflict or discrepancy at its earliest convenience.

## **ARTICLE II OFFICERS**

The officers of the Planning Commission shall consist of a Chairman, a Vice-Chairman, and a Secretary. All officers shall be members of the Planning Commission.

**Section 2.1. Chairman.** The Chairman shall preside at all meetings of the Planning Commission and at other meetings and public hearings called by the Planning Commission.

- a. The Chairman shall decide all points of order or procedure and perform any duties required by law, ordinances, these rules, or the Planning Commission.
- b. The Chairman shall call special meetings of the Planning Commission when required and shall transmit reports, plans, and recommendations of the Planning Commission to the City Council, and, in general, shall act as spokesman for the Planning Commission.
- c. The Chairman shall be one of the five (5) appointed voting members of the Planning Commission. The Chairman shall have the privilege of discussing all matters before the Planning Commission, but shall vote only when necessary to break a tie-vote or when a vote of all members is required by these Bylaws or the Land Use Articles of the Annotated Code of Maryland.
- d. The Chairman may, at his/her discretion, establish any special committee consisting of member of the Planning Commission and (if deemed necessary) City support staff to fulfill a responsibility or charge of the Planning Commission.

**Section 2.2. Vice-Chairman.** The Vice-Chairman shall serve as Chairman in the absence or the disability of the Chairman.

- a. In the event of the death, removal, or resignation of the Chairman, the Vice-Chairman shall perform the Chairman's duties until such time as the Planning Commission shall elect a new Chairman and/or Vice-Chairman, as the case may be.
- b. The Vice-Chairman shall be an appointed regular member of the Planning Commission.

**Section 2.3. Secretary.** The Planning Commission shall designate one of its members to act as Secretary of the Commission.

- a. The Secretary shall assist the Chairman in the preparation of an agenda for Planning Commission meetings, shall prepare and send out notices for regular and special meetings, shall prepare and distribute minutes of Commission meetings, and shall establish and maintain the Planning Commission's files.
- b. The Secretary shall also arrange for proper and legal notice of public hearings, attend to correspondence of the Planning Commission, and shall carry out such other duties as are normally the responsibility of a Secretary.
- c. The Secretary may direct the services of the City Planner or his/her designee to perform the routine administrative responsibilities of the Secretary's office.

### **ARTICLE III ELECTION OF OFFICERS**

Annually, at a regular meeting of the Planning Commission held in the month of January, the Commission shall elect a Chairman, a Vice-Chairman and a Secretary. The officers may succeed themselves. However, the maximum number of consecutive terms that may be served by an officer shall not exceed two for the Chairman or Vice-Chairman or three for the Secretary.

**Section 3.1. Nomination of officers.** Nomination of officers shall be made from the floor, and the election shall follow immediately thereafter.

**Section 3.2. Election vote.** A candidate receiving a majority vote of the entire membership (including the sitting Chairman) of the Planning Commission shall be declared elected and shall serve for one year or until a successor shall take office.

**Section 3.3. Vacancies.** Vacancies in offices shall be filled immediately by the regular election procedures specified in this Article.

### **ARTICLE IV MEETINGS**

**Section 4.1. Regular meetings.** Regular meetings of the Planning Commission shall be scheduled at 4:30 p.m. on the fourth Monday of each month in the Mayor and Council Chambers on the second floor of City Hall in Cumberland. If a regular meeting date falls on a Holiday observed by the City, the regular meeting shall be scheduled on the third Monday of the month at the same time and location. A regular meeting may be canceled due to a lack of substantive agenda items to be addressed, meeting location scheduling conflicts, emergency conditions, inclement weather, or other acts of nature beyond the City's control. In the event that a scheduled meeting is canceled, the Chairman may schedule a special meeting

following the procedures specified in Section 4.6 of these Bylaws or the items scheduled to be conducted at the canceled meeting shall be deferred until the next regular meeting.

***Section 4.2. Attendance.*** Each member of the Commission is obligated to attend every meeting. At the request of a member of the Planning Commission, the Chairman may make provisions for not more than two (2) members of the Commission to **participate in a meeting via a conference call or other telecommunication device**. Attendance via teleconference shall not be considered an absence, and the participating member shall be considered part of the quorum for the matter at hand. However, any subsequent consecutive request for meeting participation by telecommunication shall be counted as an “absence” solely for determining meeting attendance and participation under this Section. However, **attendance via virtual video platform is permissible, as it is far more interactive than participation via a conference call or audio-only device**. Should any voting or alternate member appointed by the Mayor and Council **fail to attend three or more consecutive meetings** without cause acceptable to the Planning Commission, the membership of the Planning Commission may, by majority vote, petition the Mayor and Council to appoint a replacement, due to inefficiency of the absent member. Once the Planning Commission has petitioned the Mayor and Council for removal of a voting or alternate member, the Mayor and Council shall consider the petition in accordance with the procedures specified in Section 1.5 of these Bylaws.

***Section 4.3. Quorum.*** A quorum necessary for the transaction of business shall consist of three (3) voting members of the Planning Commission (including the Chairman, even though he/she will vote only in the event of a tie). Unless specifically provided otherwise by Maryland Law, ordinance, or these Bylaws, the business of the Planning Commission shall be transacted by a majority vote of members present, after a quorum has been established. Members abstaining from voting on a motion before the Planning Commission shall be counted in the determination of a quorum, but shall not be counted as a vote in favor of or in opposition on the specific motion at hand.

***Section 4.4. Actions (voting) by the Planning Commission.*** An official action or decision by the Planning Commission shall require an affirmative majority vote of the members present, as specified above in Section 4.3 of these Bylaws. The Chairman may request a **roll call vote** on any motion to determine an accurate accounting of the votes. When a roll call vote is requested by the Chairman, the vote of each member on the motion shall be recorded in the official minutes of the meeting. Each action by the Planning Commission shall be **initiated by a motion**, followed by a second of the motion by different voting members of the Commission. Discussion of the motion shall be undertaken only after it has been seconded. If a motion fails to receive a second upon the call of the Chairman, the motion shall be rejected without a vote. **A motion may be revised** during the discussion session and prior to the official vote only with the consent of both the member who made the motion and the member who seconded it. A voting member of the Planning Commission also may move for an **amendment to the original motion** during the discussion session, which must receive a second by another voting member prior to discussion and action by the Planning Commission. When a motion has been amended in this manner, the Planning Commission shall first vote on the amendment or amendments in reverse order of motion, prior to voting on the original motion. No motions shall be made to take **final action on an issue subject to a public hearing** *until after* the hearing has been closed by the Chairman *and* any extended open record approved by the Planning Commission during the open public hearing has expired. The Planning Commission may take action on one or more **consent items** under a single motion for approval, provided that there is no request for discussion on said items. If any member of the Planning Commission

requests discussion on an item scheduled for consent approval, then that item shall be removed from the consent action list and subjected to a separate vote, after discussion. Voting procedures and issues not otherwise addressed in this section shall be governed by **Robert's Rules Of Order**.

**Section 4.5. Order of business.** The order of business at regular meetings shall be:

1. call to order and roll call,
2. chairman's comments (or announcements),
3. citizen comments (regarding any matter *not* on the meeting agenda),
4. reading and approval of minutes of previous meeting(s),
5. consent items,
6. public hearings or meetings (continued hearings shall be conducted first),
7. other discussion items (discussions continued from previous meetings shall be conducted first),
8. briefings (and special presentations),
9. City Planner's report
10. communications and miscellaneous new business, and
11. adjournment.

**Section 4.6. Special meetings.** Special meetings of the Planning Commission shall be held upon call of the Chairman, and at such other times as the Planning Commission may determine by majority vote, provided that at least five (5) days advance notice is given in writing (which shall include e-mail) to each member. The Planning Commission may, by majority vote conducted at a regular meeting, establish a special meeting date, time, and location that will require no advance written notice to the members of the Planning Commission. No formal vote or public hearing shall be conducted at a special meeting which has not been subject to the public notification procedures specified in Section 4.8 of these Bylaws.

**Section 4.7. Open to the public.** All meetings and hearings of the Planning Commission (with the sole exception of an Executive Session) shall be open to the public. All Executive Sessions shall be conducted in accordance with the Maryland Open Meetings Act (Maryland Annotated Code, State Government Article, Title 10 Subtitle 5, as amended).

**Section 4.8. Notification.** Public notice of all **meetings** of the Planning Commission shall be provided through the posting of a notice in a public place within Cumberland City Hall at least five (5) days prior to the scheduled date of the meeting. Such notice shall state the date, time, and location of the meeting and the actions to be taken by the Planning Commission. Public notices for all **public hearings** before the Planning Commission shall be provided in the form and manner prescribed by the applicable governing statute or local code and shall be in addition to the public notice for the regular meeting at which the hearing(s) will be conducted. If no specific public notification procedures are prescribed for a matter that Planning Commission determines to conduct a public hearing, then the hearing shall be notified by the one-time publication of a legal ad in a newspaper of local circulation within the City not less than fourteen (14) nor more than thirty (30) days prior to the date of the hearing. Such legal ad shall specify the time, date, and location of the meeting and provide a general description of the matter to be heard.

**Section 4.9. Special rules for Public Hearings.** All persons wishing to testify at a public hearing before the Planning Commission shall place their names on an **attendance list** provided by the City at the hearing site, which shall be maintained as part of the official record of the hearing. **Oral public testimonies** shall not be received *before* the public hearing has been opened by the Chairman or *after* the Chairman has closed the public hearing. The Chairman may, at his/her discretion, establish **time limitations on personal comments** and such other special rules on public conduct as may be necessary to

ensure adequate opportunity for complete and balanced public input on issues before the Planning Commission. Time limitations on individual testimonies may be imposed when the total number of persons wishing to speak exceeds ten (10) and may be restricted to three (3) or five (5) minutes, at the Chairman's discretion, depending upon the total number of potential testimonies. Whenever a time limit for oral testimonies at a public hearing is established by the Chairman, then the Planning Commission shall provide an **extended open record** for written comments prior to closing the hearing and participants at the hearing shall be informed at the hearing of their opportunity to submit written comments to the record in addition to or in lieu of their oral testimonies at the hearing. An extended open record for written comments shall be an *option* for the Planning Commission at any public hearing where no time limits on oral testimonies are needed. Any extended open record shall be established by the Planning Commission prior to the close of the hearing, along with a time-and date-specific deadline for the receipt of written comments and directions on where and how (e-mail, parcel post, and/or hand-delivery) they may be submitted. The Chairman also may, at his/her discretion and after providing a verbal warning, **request the removal of any citizen** who repeatedly disrupts the proceeding by interrupting speakers who have the floor (speaking out of turn), makes offensive remarks (such as insults, catcalls, or actively incites support or opposition from other citizens at the hearing), or acts in a hostile, combative, confrontational, or potentially threatening manner.

## **ARTICLE V RECORDS**

***Section 5.1. Duty of the Secretary.*** The Secretary shall take or arrange for the taking of minutes covering the proceedings of each meeting of the Planning Commission, documenting the actual vote on each question.

***Section 5.2. Official minutes.*** The minutes of a Planning Commission meeting shall not become an official record of the Planning Commission until they have been adopted by majority vote of the Planning Commission. The official minutes and all records of the Planning Commission shall constitute public records, and the Planning Commission shall arrange with the Mayor and City Council to provide for the safe keeping of those records.

***Section 5.3. Permanent files.*** In addition to the minutes of the Planning Commission, the Secretary shall keep a permanent file of all official minutes, plats, maps, charts, reports, notices, resolutions, correspondence and applications filed with and issued by the Planning Commission.

## **ARTICLE VI EMPLOYEES, CONTRACTS, AND FINANCES**

***Section 6.1. Employees of the Planning Commission.*** The Planning Commission may request the Mayor and Council to designate municipal employees to assist in the work of the Planning Commission; and the Planning Commission may also recommend that the City contract with consulting and regional planners, engineers, architects and other professionals for such services as may be required.

***Section 6.2. Expenditures.*** The expenditures of the Planning Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Mayor and Council.

***Section 6.3. Custody of funds.*** The Secretary shall take custody of any and all funds coming into the possession of the Planning Commission, shall deposit those funds in a manner approved by the Planning Commission, and shall establish and maintain the Planning Commission's books of account. Under the Planning Commission's direction and upon its authorization, the Secretary shall sign all orders, invoices, and purchase orders for the payment of money and shall pay out and disburse Commission funds.

## **ARTICLE VII COMMUNICATIONS WITH THE PUBLIC**

Until such time as the Planning Commission has adopted official minutes of a meeting, the Chairman shall serve as the **official and exclusive spokesperson for all communications** with the public and the media regarding the actions taken at a meeting. If a meeting was chaired by the Vice-Chairman, then the Vice-Chairman shall serve as the official and exclusive spokesperson for all communications with the public and the media regarding the actions taken at the meeting, until such time as the Planning Commission has adopted official minutes for said meeting. The Chairman or Vice-Chairman, serving in this capacity, may (at his/her discretion) refer or defer specific questions or inquiries from the public or media regarding meeting issues to the City's Attorney or the City Planner, in accordance with applicable City policies and procedures. All **official written letters and recommendations** from the Planning Commission (representing the Planning Commission as a body) shall be issued only after approval of the Planning Commission.

## **ARTICLE VIII AMENDMENTS TO THE BYLAWS**

The Planning Commission may from time to time amend any part or parts of these rules and regulations so long as such amendments are in accordance with the laws of the State and ordinances of the City of Cumberland; such amendments shall require the affirmative majority vote of Planning Commission members present.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2021 by an affirmative vote of \_\_\_\_ to \_\_\_\_\_, with \_\_\_\_\_ members abstaining or absent.

**ATTEST:**

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary