

# **TRAVERSE CITY PLANNING COMMISSION STUDY SESSION**

**TUESDAY, October 21, 2014**

**7:30 P.M.**

**Commission Chambers  
Governmental Center, 2nd Floor  
400 Boardman Avenue  
Traverse City, Michigan 49684**

**Posted: 10/17/14**

## **AGENDA**

The City of Traverse City does not discriminate on the basis of disability in the admission or access to or treatment or employment in, its programs or activities. Penny Hill, Assistant City Manager, 400 Boardman Avenue, Traverse City, Michigan 49684, 922-4440, T.D.D., 922-4766, has been designated to coordinate compliance with the non-discrimination requirements. If you are planning to attend and you have a disability requiring any special assistance at the meeting and/or if you have any concerns, please immediately notify the ADA Coordinator.

Planning Commission  
c/o Russell Soyring, Planning Director  
400 Boardman Avenue, Traverse City, MI 49684  
231-922-4778

- 1. CALL MEETING TO ORDER**
- 2. ROLL CALL**
- 3. ANNOUNCEMENTS**
- 4. PLANNING COMMISSION BYLAWS: LAUREN TRIBLE-LAUCHT AND BENJAMIN MARENTETTE (DISCUSSION)**
- 5. PUBLIC COMMENT**
- 6. ADJOURNMENT**



## Communication to the Planning Commission

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FOR THE MEETING OF:                   OCTOBER 21, 2014

  FROM:                   RUSS SOYRING, PLANNING DIRECTOR

  SUBJECT:               AMENDMENT TO BYLAWS

  DATE:                   OCTOBER 16, 2014

The City Manager requested that the Planning Commission consider amending their bylaws in September. The City Clerk and City Attorney have reviewed the bylaws and have incorporated several suggested changes. Please refer to the memo prepared by the City Clerk and City Attorney as well as the suggested Bylaws amendment.

In addition, Michigan State University Extension published an article titled, "[Sample Bylaws for a Planning Commission](http://lu.msue.msu.edu/pamphlet/Bclsam/pamphlet1E%20PlanComm%20ByLaws.pdf)" dated May 19, 2008 that contains useful information to consider with our possible Bylaws amendment. Link to article:  
<http://lu.msue.msu.edu/pamphlet/Bclsam/pamphlet1E%20PlanComm%20ByLaws.pdf>

The Bylaws state that the draft changes are presented to the Commission in writing and then acted upon at a following meeting. The proposed changes included in the packet are for discussion on October 21, 2014 and will be presented again for possible action on November 4, 2014.

RAS:mll

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# Memorandum

The City of Traverse City



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TO: Russell Soyring, City Planning Director

COPY: Jered Ottenwess, City Manager

FROM: Benjamin Marentette, City Clerk  
Lauren Tribble-Laucht, City Attorney

DATE: Thursday, October 16, 2014

SUBJECT: PLANNING COMMISSION BYLAWS

As you requested, we have reviewed the Planning Commission Bylaws. We have made several suggestions for consideration by the Planning Commission; we will be in attendance at the Planning Commission's October 21, 2014, meeting to discuss these recommendations. The recommendations are largely mirrored after the premise of the Rules of Procedure for the City Commission.

Many of the recommendations are self-explanatory. We would like to address the following suggested changes:

Section III(C) – This section currently indicates that a special meeting may be called by the Chairperson, or in the event the Chairperson is out of town, the Vice Chairperson; or in any event, any three members of the Planning Commission.

We recommend that the Planning Director also have the ability to call special meetings.

In the event three Planning Commissioners are requesting the Special Meeting, to avoid potential Open Meetings Act violations, we recommend that in these instances the initiating Commissioner email the Planning Director with their request for a special meeting, and indicate the item(s) to be considered. The Planning Director would then distribute the request to the Planning Commission and see if there are two additional members who would like to join in making the request. A similar process is used by the City Clerk for City Commission meetings.

Section III(E) – we recommend deletion of the requirement that the Chairperson of the Planning Commission approve the agenda.

We also recommend that the same individuals that could call a special meeting also be able to place items on the agenda. Once items are on the agenda, it should not be up to one person to allow or disallow the Planning Commission's consideration of items.

Finally, we also recommend that the Planning Commission only consider items that are on the published agenda unless seven (7) members of the Planning Commission vote at the meeting to suspend this rule and add an item to the agenda. This serves as a

safeguard against items being considered that other members of the Commission, staff, or the public were not aware and therefore could not prepare, or attend the meeting. Generally speaking, a public body, for transparency reasons, should not consider items not on its published agenda unless there is a public, safety, or general welfare reason for doing so. One example of a reason where the Planning Commission may wish to add an item to an agenda after its publication is a potential instance where the Planning Director becomes aware of a grant that requires Planning Commission endorsement, and there is the need to quickly take action on the item in order to ensure grant eligibility.

Section III (G) – we recommend deletion of this item as it is unnecessary.

Section V – we recommend not requiring a Commissioner to be disqualified from making a decision because of a conflict of interest but rather to state “may recuse themselves” – ultimately a decision regarding a conflict of interest and related recusal belongs to the Commissioner not the Commission.

Section VI (G) – Planning Commissioners should avoid ex parte contact when there is a pending administrative decision. An administrative decision is a pending decision in front of the Planning Commission where there is an applicant, for example a rezoning, a Special Land Use Permit, Planned Unit Development, etc. Ex parte contact occurs when a Planning Commissioner has contact with an applicant for a pending administrative decision, regardless of the method of contact (email, telephone, etc.) In the event such contact is made, the member of the Commission should submit a document to the Planning Director describing the nature and content of the contact; the Planning Director would then provide that document to the Commission and include it under “Reports” at the next Planning Commission meeting, so that everyone is aware of the contact that took place.

Section X – we recommend deletion of this section as it is unnecessary (likely has been in the Bylaws for a very long time) – of course, the Planning Commission and Planning Department would remain available and accessible to the news media, publishes information on the City’s website, etc.

We hope these recommendations are helpful; and we will be happy to elaborate on any of them and participate in a discussion regarding these items.

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# **PLANNING COMMISSION BYLAWS**

## **TRAVERSE CITY PLANNING COMMISSION**

(Adopted December 13, 1988)  
(Revised December 6, 1994)  
(Revised August 9, 1995)  
(Revised January 19, 2000)  
(Revised August 23, 2000)  
(Revised June 6, 2007)  
(Revised May 7, 2008)  
(Revised January 7, 2009)  
(Revised September 9, 2009)  
(Revised November 1, 2011)  
(Revised November 25, 2013)  
(Revised February 21, 2014)  
(Revised October 16, 2014)

### **PURPOSE:**

These Planning Commission Bylaws are adopted pursuant to the Traverse City Code to acquaint the people of Traverse City and persons appearing before the Commission with the operation of the Commission so that matters coming before this body can be handled in an understanding, prompt and efficient manner.

### **I. AUTHORITY AND JURISDICTION:**

The City Planning Commission derives its authority from the City Charter Section 160, which states The City Commission shall by ordinance establish and maintain a City Planning Commission having the powers and duties prescribed by State law; and the Traverse City Code (Chapter 1220). That these laws state that the City Planning Commission shall have the powers and duties authorized and directed by the City Charter, the Michigan Zoning Enabling Act of P.A. 12 of 2008 as amended, and the Michigan Planning Enabling Act of P.A. 33 of 2008 as amended. This section also provides for establishing the membership of the Commission, the meetings of the Commission and grants the authority to the Commission to adopt rules and procedures for the conduct of their business.

### **II. OFFICERS:**

A. A Chairperson, Vice-Chairperson and Secretary shall be elected by majority vote of the members of the Commission every year at the first regular meeting in the month of January.

Such other officers as are deemed necessary and advisable for the conduct of business shall be appointed as required and provided for by the Commission.

B. The Chairperson shall preside at all meetings and shall appoint such committees as may be authorized by the Commission, and be an ex-officio member of such committees.

The Chairperson, subject to these rules, shall decide all points of order or procedure, subject to appeal by a member of the Commission, which shall be determined by a majority of the members of the Commission present. In the event an appeal is taken by any member from the ruling of the presiding officer, the Commissioner desiring to appeal shall state that a claim of appeal is being taken and shall state briefly what in that Commissioner's opinion the ruling should have been. If this appeal is seconded, the recording secretary shall state clearly the question at issue, and then shall call for the vote of the Commission on the question: "Shall the decision of the presiding officer be sustained?" Such decision shall be final and shall be binding on the presiding officer, unless otherwise directed by a majority vote of the Commission in the session at that time.

- C. The Vice-Chairperson shall preside and exercise all of the duties of the Chairperson in his or her absence. Should neither the Chairperson, nor the Vice-Chairperson be present at a meeting, a temporary Chairperson shall be elected by a majority of the members present.
- D. The Secretary shall record the meeting minutes.
- E. In the event that an officer shall leave the Commission before the expiration of his or her term, an individual shall be appointed to the vacancy in the same manner for appointments as defined by City ordinance~~the Mayor, City Commission or Mayor with City Commission approval shall appoint a new officer to serve out the remainder of his or her term.~~

~~II.~~ ~~III.~~ **MEETINGS:**

III.

- A. All ~~regular and special~~ Commission meetings shall be open to the public.
- B. The regular meetings of the Commission shall be held on the first Tuesday of each month, except when such Tuesday falls on a legal holiday or conflicts with the City Commission meeting schedule.
- C. A special meeting of the Commission may be called by the Planning Director, Chairperson, the Vice-Chairperson in the event the Chairperson is out of town, or any three members of the Commission. Each member of the Commission must receive at least eighteen (18) hours notice as to the time, place and purpose of the meeting in writing, delivered or served personally at his or her usual place of residence, except that the announcement of a special meeting at a time at which all members are present shall be sufficient notice of such meeting. In the event a request to call a Special Meeting is initiated by a member of the Commission other than the Chairperson, or Vice-Chairperson in the event the Chairperson is out of town, the initiating Commissioner shall submit a written request to the Planning Director requesting the Special Meeting. The request shall contain the item(s) to be considered. The Planning Director shall then forward the request to the Commission and request if there are two

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~~(2) additional Commissioners who would like to call the Special Meeting; and any Commissioner who would like to join in making the request shall respond directly to the Planning Director.~~

- D. Study meetings may be held on the third Tuesday of the month, as called for by the Commission or Chairperson, except when such Tuesday falls on a legal holiday or conflicts with the City Commission meeting schedule.
- E. Meeting agendas shall be ~~prepared by the Planning Director approved by the Chairperson. The Planning Director and any member of the Commission may place items on the agenda; items to be placed on the agenda by a member of the Commission shall be submitted at least seven calendar days in advance of the given meeting, unless for a Special Meeting called for a specific purpose in accordance with these Bylaws.~~ The agenda shall be sent to the Commission no later than on the Friday preceding the regularly scheduled meeting. ~~The Commission shall only consider the items listed on the originally released agenda, unless seven (7) members of the Planning Commission, by affirmative vote, suspend this rule to add an item to the agenda. In unusual circumstances, items may be added to the agenda by the Chairperson prior to the meeting.~~
- F. A quorum of five (5) members must be present to constitute an official meeting of the Commission.
- G. ~~All hearings shall be scheduled at the hour the meeting is scheduled to be.~~
- H. All regular meetings shall begin at 7:30 p.m. and no new items requiring action shall be taken after 10:00 p.m. unless otherwise determined at the meeting by a majority of the Commission present.
- I. The conduct of the Planning Commission business shall be governed by the current edition of Robert's Rules of Order unless otherwise modified by law, ordinance, or these rules of the Planning Commission.

**IV. VOTES:**

The concurring vote of a majority of members present at a regular or special meeting shall be necessary to pass on any matter referred to them. The adoption of a master plan, or of any such part, amendment, extension or addition shall require the concurring vote of six (6) members of the Commission.

**V. CONFLICT OF INTEREST:**

Upon disclosure of a conflict of interest the member ~~may recuse themselves from voting on the issue or participating in the making of a decision. shall be disqualified from voting on the~~

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~~matter at issue.~~

- A. Appearance of Conflict. An appearance of a conflict exists when a reasonable person would believe that because of certain facts a Planning Commissioner's participation in a proceeding would create an appearance of impropriety, partiality, bias or lack of fairness.
- B. Contractual Conflicts of Interest. The conduct of City officials and employees in relation to conflicts of interest involving contracts shall be as established by State law.
- C. Financial Conflict of Interest. An official or employee who has a financial interest, direct or indirect, in any matter to be decided by the City Planning Commission, other than with respect to a contract, shall make that interest known and shall refrain from voting upon or otherwise participating in the making of the decision. Violation of this subsection with the knowledge, express or implied, of the person or corporation dealing with the City Planning Commission shall render the decision voidable by the City Manager or the City Commission. Any official or employee violating the provisions of this subsection shall be deemed guilty of a misdemeanor, and upon conviction shall forfeit office. A financial conflict of interest may be waived by the City Commission after full disclosure of such conflict to the Commission. Unless otherwise provided by law or ordinance, the remaining members of the Commission in a unanimous vote may rule that the best interests of the City are to be served by removing the prohibition on voting and participating in the matter.

**VI. PROCEDURE:**

- A. All inquiries, applications or matters requiring official action by the Commission which is not specifically mentioned below shall be submitted in writing at the offices of the Planning Department. This must be done at least seven (7) days prior to the meeting of the Commission at which consideration is requested.
- B. Requests for rezoning subdivision approvals, Special Land Use Permits and Planned Unit Developments shall be filed on application forms obtained from the Planning Department.
- C. Rezoning, Special Land Use Permit, Planned Unit Development, subdivision approval, lot split and alley and street vacationing requests shall be submitted at least seven (7) days prior to the meeting for introduction before the Commission. If the Commission finds the submission complete, then a public hearing date shall be scheduled to consider the request.
- D. The Commission and/or the Planning Director may require such surveys, plans or other information as may be reasonably required by said Commission for the proper evaluation or consideration of the matter. Written documentation from the petitioner

should be presented to the Commission which will give full information as to the intentions of the petitioner, as well as a legal and informal description of the property in question.

~~E. In the event that sufficient data has not been furnished, the Commission shall table the matter until such time as the required information has been furnished.~~

~~F.E. All proceedings, decisions and resolutions of the Commission shall be initiated by motion. The vote upon motions and resolutions may be recorded by roll-call vote. All members, including the Chairperson, shall may vote on each motion unless they have stated there is a conflict of interest, or the appearance of a conflict of interest, as defined in these bylaws.~~

F. In the event a petitioner requests that his or her item be tabled, after it has been published, noticed and scheduled, the public hearing may be held to allow interested citizens an opportunity to speak to the request, then tabled to a specific future meeting and scheduled in sequence on the agenda.

G. Whenever there is an administrative decision to be made by the Commission, members of the Commission shall avoid ex parte contact. An administrative decision is when there is an applicant for a decision to be made by the Planning Commission, such as a rezoning, a Special Land Use Permit or a Planned Unit Development. Ex parte contact is contact with the applicant outside of a Planning Commission when there is a pending administrative decision, regardless of means, such as a telephone conversation, email, in-person conversation. In the event such contact is made, the member of the Commission shall submit a document to the Planning Director outlining the nature of the contact, what was said, and the Planning Director shall provide the document to the members of the Commission and include the document in the next meeting packet, and feature it on the agenda as a "report."

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## VII. PUBLIC HEARINGS:

A. The primary function of the public hearing process is the gathering of information through public testimony and written documentation. The nature of the evidence received during this process will in many cases require further careful consideration to assure a logical and just decision. The Commission shall therefore determine at each public hearing the meeting date at which a decision will be rendered.

B. The applicant or the applicant's authorized agent must be present at the public hearing to properly answer questions concerning the request. If the applicant or agent is not present, the request may be tabled until the next meeting or dismissed at the discretion of the Commission.

- C. The Commission shall hold a public hearing on any proposed amendment to the zoning ordinance or zoning map. Official notice for the Commission public hearings shall comply with the requirements and procedures established by Section 1320.04 of the City Code of Ordinances. The Commission shall recommend approval or denial of the amendment, and shall transmit, in writing, its recommendation to the City Commission for official action.
- D. The Commission shall hold a public hearing on any proposed City Commission authorized Special Land Use Permit. The official notice of public hearing shall comply with Section 1364.04, of the City Code of Ordinances. The Commission may recommend denial, approval or approval with conditions after said hearing and notification as provided herein. Its recommendation shall be incorporated in a statement of conclusions specifying the basis for the recommendation and any conditions imposed, which statement shall be transmitted to the City Commission for official hearing and action.
- E. The Commission may hold a public hearing with such notice as it deems advisable for Planned Unit Developments. After review by the Commission, it shall submit a written recommendation to the City Commission.
- F. In the case of lots splits resulting in the creation of a new buildable lot, the Commission may in its discretion hold a public hearing on the matter and make a recommendation to the City Commission for appropriate action.
- G. The Commission may hold a public hearing with such notice as is deemed advisable for public street and alley vacations and openings. After review by the Commission, it shall submit a written recommendation to the City Commission.
- H. The Commission will not reconsider any request on which a negative decision has been rendered within one (1) year from the date of the Commission's decision on the request unless it can be shown by the petitioner that substantial new information affecting the request which was not presented to the Commission at the previous hearing(s) is now available and would affect the original decision rendered. Said substantial new information shall be described in writing by the applicant at the time of application. Before re-hearing the request, the Commission shall decide whether there is substantial new information allowing the new hearing.

**VIII. PUBLIC COMMENT AT REGULAR MEETINGS.** The Planning Commission welcomes public comment and has prescribed the following to facilitate the conduct of public business.

- A. Public Comment during Agenda Items. Any interested person wishing to address the Planning Commission regarding an Agenda Item may do so during discussion of an agenda item prior to action recognized by the presiding officer or upon request of any Commissioner. All persons must identify themselves and their address and direct their

comments to the Commission. The comment of any member of the public or any special interest group may be limited in time to five minutes except as provided in subsection (D). As part of its deliberation, the Planning Commission may clarify, answer questions and ask questions as a result of public comment.

- B. Public Comment during the designated Public Comment Section - General. Any interested person wishing to address the Planning Commission regarding other matters may do so under the designated Public Comment section. All persons must identify themselves and their address and direct their comments to the Commission. The comment of any member of the public or any special interest group may be limited in time to five minutes except as provided in subsection (D). Questions posed may be answered at the meeting or may be referred to staff for response at a later time.
- C. Public Comment during the designated Public Comment Section - Planning Commissioners. Planning Commissioners interested in making a public comment may do so under the designated Public Comment section. Further, Planning Commissioners may briefly respond for clarification purposes as a result of public comment.
- D. Order and Duration of any Public Comment. The presiding officer shall control the order and duration of any public comment subject to appeal. The presiding officer shall have the authority to limit and terminate any public comment that becomes disruptive, unduly repetitive, or impedes the orderly progress of the meeting. Items not appearing on the agenda will not be acted upon by the Planning Commission except in accordance with these rules.

**IX. AMENDMENTS:**

- A. These bylaws may be amended or modified provided that such amendment or modification is presented in writing at a meeting, and that favorable action is taken thereon at a subsequent meeting.
- B. Six (6) members of the Commission by due motion and recorded vote may suspend or vary the application of these rules to a particular application, case, problem or proceeding pending before the Commission.

~~X. PLANNING COMMISSION POLICIES FOR PROVIDING INFORMATION TO THE NEWS MEDIA:~~

~~The Commission will provide information to the news media in the following manner:~~

- ~~A. Upon request, the agenda of a specific meeting will be sent out to the various news media at the same time they are sent to the Commission.~~

- ~~B. — The news media should be advised that if they do not attend the meeting, they can call the Secretary the morning after the meeting, and he or she will advise them of the action which was taken by the Commission.~~
- ~~C. — Upon request by the news media for a specific Commission meeting, the minutes for that meeting will be provided to the requesting party.~~
- ~~D. — At such time as the Commission may invite in outside experts, or for study sessions which relate to some major program which may be evolving, the Secretary may notify the news media of such a meeting and request their presence if directed by the Commission. This will enable the news media to obtain this background information in the same fashion as the Commission, thereby enabling them to have a better basis for reporting future actions of the Commission relative to the proposed programs.~~

I hereby certify that the above document was adopted by the Traverse City Planning Commission at their November 4, 2014 meeting.

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Jan Warren, Secretary  
Traverse City Planning Commission