

Bylaws of the City of Newark

Planning Commission

Adopted: / Last Revised:

The Planning Commission of the City of Newark, established in conformance with State Code and the Charter of the City of Newark, has adopted the following Bylaws in order to facilitate its power and duties in accordance with the Code of Delaware, as amended.

These bylaws are adopted in conjunction with the adopted Public Hearing Rules of Procedure of the Planning Commission. Some terms are defined there.

Legal Authority

Newark City Charter, Section 901; Newark City Code, Chapter 2, Sections 78 through 90; Delaware State Code, Title 22, Chapter 7 .

Meetings

All regular and special meetings of the Planning Commission shall be open meetings to which all members of the public shall be admitted without restriction or qualification. Meetings will be held at locations accessible to persons with disabilities, and reasonable accommodations for access shall be made to the greatest extent possible. All procedures of the Planning Commission shall comply with the Delaware Freedom of Information Act, as contained in Title 29, Chapter 100 of the Delaware Code, as amended. To the extent that any provision herein shall conflict with the provisions of the Delaware Freedom of Information Act, the more restrictive provision shall apply.

The Commission may hold executive sessions as provided in Title 29, Chapter 100 of the Delaware Code and the Code of the City of Newark. Executive sessions must be on the agenda of a regular or special meeting and the purpose for such a session must be on the agenda. The vote to enter executive session must be made publicly by the members of the Planning Commission prior to entering executive session.

In all respects, the conduct of the Planning Commission, its meetings, and its Members, shall comport with the City's Code of Ethics.

Regular Meetings

Regular meetings of the Commission shall be held on the first Tuesday of each month at 7:00 P.M. in Council Chambers in the Municipal Building and in accordance with Section 2-83 of the City of Newark Code, or as otherwise specified and approved by the Planning Commission. Off-site or remote meetings may take place in accordance with policies established by City Council.

Use of the Municipal Building and staffing of the Planning Commission meetings is under the authority of the City Manager.

35 When a meeting falls on a legal holiday the meeting shall be held on the day following unless
36 otherwise designated by the Commission.

37 Regular meetings may be cancelled by the Chair upon notice to all Members and to the public
38 for the following reasons:

- 39 ▪ When there are no public hearings on the agenda or when determined that the meeting
40 cannot occur on the original date no later than at least two weeks in advance of the
41 meeting date.
- 42 ▪ When a lack of quorum is determined no later than the day prior to the meeting.
- 43 ▪ When weather or other conditions make it hazardous for members to attend.
- 44 ▪ For reasons other than weather or other hazardous conditions provided there are no
45 applications, public hearings, or other business pending or advertised for that meeting date
46 and provided that the Commission meets at least every two months.

47 Cancellation prior to convening a meeting may be done through proper notice by staff or the
48 Chair. All hearings and other matters previously advertised shall be conducted at the next
49 regular meeting.

50 An applicant may notify the Planning and Development Director, in writing, to withdraw or
51 defer their project with no additional action required. The Director shall notify the Chair of this
52 action prior to the scheduled meeting, and inform the Commissioners of the change in status of
53 the agenda item.

54 [Special Meetings](#)

55 Special Meetings of the Planning Commission may be called by a majority of the Members, by
56 the Chair, by staff in consultation with the Chair, or by staff with notification to the Chair when
57 advance consultation is infeasible. Communication shall be in writing or by email. Staff and/or
58 the Chair shall make a good-faith attempt to gain majority consensus where feasible before
59 calling a Special Meeting, and shall at a minimum issue notification to all Members immediately
60 upon determining to call a Special Meeting.

61 At a Special Meeting only those items on the agenda may be discussed.

62 There shall be no limit to the number of Special Meetings that may be called in a given year.

63 [Order of Business](#)

64 Meetings shall be conducted in accordance with the adopted Planning Commission Public
65 Hearing Rules of Procedure.

66 The privilege of the floor may be granted to the public at any time by the Chair.

67 [Agenda](#)

68 The agenda can be altered by an affirmative vote of a majority of the Members present.

69 Working within the framework of the Commission work plan, budget, and other policy direction
70 set by Council; staff will identify the need for and schedule the majority of Planning Commission
71 agenda items.

72 Future agenda items may be requested by a Member in open session. Such items shall be
73 added by staff if approved by a majority of the Members. In the event a future agenda item is
74 requested by a member of the public in open session, the Planning Commission shall not be
75 obligated to deliberate on the agenda item request, however any Member may assent to
76 requesting that the Planning Commission consider adding the item, in the manner described in
77 this paragraph. Occasional agenda item requests from a member of the public received outside
78 of a noticed meeting, or other atypical agenda items, may be considered by staff, in
79 consultation with the Chair, for suitability for being added when consulting with a majority of
80 the Members is infeasible due to time constraints. Issues may also be referred to the Planning
81 Commission by Council and staff shall add them in a timely fashion.

82 Motions

83 Call for Motion

84 Upon conclusion of discussion and following acceptance of public input, any Member may place
85 a motion on the floor. The motion shall contain the proposed action in sufficient detail so as to
86 be understood by the audience and staff. If no motion is immediately forthcoming, the Chair
87 may call for a motion to be made.

88 Seconding a Motion

89 The Chair shall receive all motions and shall call for a second to each motion.

90 Lack of a Second

91 If, after a reasonable time, no second has been made, the motion shall be declared dead for
92 lack of a second, and the Chair shall so state.

93 Discussion/Debate

94 After a motion has been made and seconded, the Chair shall call for a discussion of the
95 question. All discussion shall be limited to the motion on the floor. At the close of the
96 discussion, the Chair shall put the matter to a vote by causing either a roll call vote or voice vote
97 to be conducted.

98 Time Limits on Discussion/Debate

99 The Chair reserves the discretion to limit the duration of debate on any motion, but shall
100 ensure that each Member has the opportunity to speak.

101 Amending a Motion

102 A motion to amend may be made by any Member to revise a motion on the floor, but it cannot
103 be a freestanding motion on its own, nor can it substitute for a main motion. The motion to
104 amend must be voted upon, unless the maker and the seconder accept it as a friendly
105 amendment, and, if so accepted, it then becomes part of the main motion.

106 [Withdrawing a Motion](#)

107 Any motion may be withdrawn by the maker at any time prior to being voted upon.

108 [Motion to Continue](#)

109 A motion to continue may be made by a Member should they feel they require additional
110 information, or more time to review information and/or comments that were offered at the
111 hearing. The motion must contain a specific plan for bringing the motion back to the
112 Commission.

113 [Method of Voting](#)

114 [Roll Call Vote](#)

115 Voting upon a motion shall be conducted in the form of a roll call vote, unless the Chair
116 determines to conduct a voice vote. When a motion has been made and seconded and no
117 matters remain under discussion, the Chair shall call on each Commissioner alphabetically. For
118 each subsequent vote, the voting order will rotate in a consistent manner, with the name
119 previously called first rotated to the last position, except that the Chair shall always cast the last
120 vote.

121 Each Commissioner must state the reasons for their vote for the record.

122 A roll call vote must be conducted for all Site Plan Approval applications, zoning changes,
123 Special Use Permit applications, annexations, and parking waivers, For all other matters, the
124 Chair may conduct a vote by voice or acclamation. An applicant may request a roll call vote.

125 [Voice Vote](#)

126 Where a roll call vote isn't required and there is no objection from any Member or staff, the
127 Chair may conduct a vote by voice or acclamation in lieu of a roll call vote.

128 The Chair shall call the question in the form of "All in favor?" followed by "All opposed?" Each
129 Member shall clearly state "Aye," "Yes," or "Yea" in the affirmative; "No," or "Nay" in the
130 negative.

131 In the event the outcome of a voice vote is unclear, any Member or staff may request a roll call
132 vote immediately following a voice vote. A roll call vote shall be taken without further
133 discussion.

134 [Recusal \(Disqualification due to Conflict of Interest\)](#)

135 Planning Commission members shall conduct themselves in accordance with the City of
136 Newark's Code of Ethics. Grounds for recusal may be exparte knowledge, business, community
137 or personal relationships, financial relationships or circumstances as determined by the City
138 solicitor. A Commissioner may seek recusal advice directly from the City solicitor or through an
139 opinion from the City Ethics Board. Any Member requesting to be recused relating to a
140 particular agenda item shall openly declare the nature of the conflict following the Chair's
141 announcement of the item to be considered, but before discussion has begun.

142 A Member who is recused shall absent themselves from the meeting and may not be called
143 upon to break a tie or form a quorum.

144 Officers

145 Election of Officers shall be in accordance with Section 2-82 of the City of Newark Code. In
146 addition to the officers designated , the Planning Commission shall also elect a Vice-chair. If no
147 Vice-chair is nominated or elected than the most senior Member present shall serve the role of
148 Vice-chair.

149 Duties of Officers

150 The Chair shall:

- 151 ▪ Preside at all meetings. Points of order and meeting conduct shall be settled by the Chair,
152 unless overruled by a majority vote of the Planning Commission, in compliance with these
153 Bylaws, the Commission’s Public Hearing Rules of Procedure, and the advice of the City
154 Solicitor. Staff will assist the Chair where appropriate.
- 155 ▪ Review and Approve the Agenda for meetings.
- 156 ▪ Appoint committees and chairs.
- 157 ▪ Act as the primary contact for staff for certain matters not requiring action by a majority of
158 the body.
- 159 ▪ Represent the Planning Commission before City Council whenever deemed necessary or
160 desirable by the Planning Commission or Council.
- 161 ▪ Be subject to an “appeal of the decision of the Chair” by the Members.

162 The Vice-chair shall:

- 163 ▪ During a meeting to act in the absence or inability of the Chair to act.
- 164 ▪ Have the power to function in the same capacity as the Chair.

165 In the absence of both the Chair and Vice-chair, and provided that there is a quorum, the most
166 senior Member shall preside at the meeting.

167 The elected Commission Secretary shall be responsible for:

- 168 ▪ Reading the official motions for agenda items.
- 169 ▪ Other duties as assigned by the Chair.

170 Standing and Special Committees

171 Committees may be created by the Planning Commission for purposes and terms approved by
172 the Planning Commission. The Planning Commission, and committees thereof, may work with
173 members of the public in pursuit of the Planning Commission's purpose and duties. All
174 committees, regardless of its composition or number or office of Members, shall be required to
175 comply with the Open Meeting requirements of the City Code.

176 The Chair shall be an ex officio member of every committee.

177 The Planning and Development Director or their designee shall be an ex officio member of
178 every committee.

179 [Standing Committees](#)

180 Standing Committees may be established by a majority of the Planning Commission to gather
181 information or deliberate on issues deemed necessary to carrying out the functions and
182 purpose of the Planning Commission, on an ongoing basis.

183 All standing committees shall provide written or oral reports in public session, no less than
184 quarterly, to the Planning Commission.

185 [Special Committees](#)

186 Special Committees consisting of less than a majority of the Planning Commission and members
187 of the public may be established by a majority of the Planning Commission. Such committees
188 shall be established to gather information or deliberate on a particular issue deemed necessary
189 to carrying out the functions and purpose of the Planning Commission, for a limited duration.

190 The final report of the Special Committee on its subject of investigation shall be entered into
191 the public record. The Planning Commission shall deliberate and act upon on the designated
192 issue. Special Committees shall be dissolved once their specific task is completed.

193 [City Staff Services](#)

194 The City of Newark Planning and Development Department shall provide necessary staff
195 services to the Planning Commission in accordance with Chapter 2 Article VIII of the City of
196 Newark Code.

197 [Staff Relationship to the Planning Commission](#)

198 Staff support and assistance is provided to the Planning Commission for approved work plan
199 items. While Staff may work closely with the Planning Commission, those Members do not have
200 supervisory authority. Staff are solely responsible to their immediate supervisors and ultimately
201 to the City Manager. In order that Members may be fully prepared to engage in productive
202 discussion and take action in open sessions they are encouraged to ask clarifying questions
203 regarding report materials and general matters from the Director of the Planning and
204 Development department prior to meetings.

205 Individual Members shall not make requests of staff without discussion and approval of the
206 Planning Commission in open session, and shall not request that staff undertake work outside
207 the scope of authority of the Planning Commission.

208 [ADOPTION OF BYLAWS](#)

209 These rules as amended shall become effective upon adoption by a majority vote of the
210 Planning Commission.

211 These Bylaws shall not be construed in any manner conflicting with controlling provisions of
212 state or federal law, and shall not be construed as attempting to supersede any ordinance of
213 the City of Newark. In the event of conflict between these Bylaws and other policies enacted by
214 Council regulating these same matters, the newer of the policies shall prevail. If any portion of
215 these Bylaws shall be deemed to be unconstitutional or otherwise invalid, the validity of the
216 remaining sections, subsections and clauses shall not be affected thereby. The provisions of
217 these Bylaws shall not preclude the preparation and adoption of further procedural manuals
218 and policies by which the Planning Commission may direct its activities.

219 These Bylaws are the sole work product of the Planning Commission. They are not intended to
220 be adopted in any form by City Council.

221 [Amending of Bylaws](#)

222 The bylaws may be amended by a Member through a two step process:

- 223 1) Submitting the proposed amendment at a regularly scheduled meeting
- 224 2) Review and adoption at the next regularly scheduled meeting.

225 [Setting Aside the Bylaws](#)

226 Any section of the bylaws may be set aside by an unanimous vote of the Members present. The
227 justification for the set-aside shall be placed on the public record.