

PLANNING COMMISSION REGULAR MEETING AGENDA

CITY COUNCIL CHAMBERS
CIVIC CENTER SOUTH
470 S. ALLISON PARKWAY
LAKEWOOD, COLORADO

HOSTED VIRTUALLY AT LAKEWOODSPEAKS.ORG

October 6th, 2021

7:00 PM

- ITEM 1: CALL TO ORDER
- ITEM 2: ROLL CALL
- ITEM 3: AMENDMENTS TO THE PLANNING COMMISSION RULES AND REGULATIONS
- ITEM 4: GENERAL BUSINESS
- ITEM 5: ADJOURNMENT

This meeting will be conducted using Zoom and the recording will be available after the meeting on the City of Lakewood YouTube account. The public may view the meeting live stream online at lakewoodspeaks.org.



CITY OF LAKEWOOD

RULES AND REGULATIONS GOVERNING THE PROCEDURES OF THE PLANNING COMMISSION (AS ADOPTED July 21, 2021)

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ARTICLE 1
GENERAL PROVISIONS

Section 1.1 Applicable Law

The Planning Commission (hereinafter referred to as the “Commission”) is established by Section 9.1 of the City of Lakewood home rule charter (the “Charter”). The Commission shall be governed by the Charter, the Lakewood Municipal Code, City ordinances, applicable State Law, and these Rules and Regulations (collectively referred to hereinafter as “Applicable Law”).

Section 1.2 General Duties

- A. Upon taking office, all members of the Commission (hereinafter, each a “Commissioner”) shall familiarize themselves with Applicable Law and all information provided pertaining to cases presented for review to the Commission, and while in office, shall maintain such knowledge and apprise themselves of all amendments and additions to any of the foregoing.
- B. Commissioners should make a good faith effort to visit any site which is the subject of a request for review by the Commission for the purpose of acquainting themselves with the site’s physical layout and its relation to surrounding properties and uses, and to help them in visualizing the effect of granting the particular request (whether rezoning, final plat, special use permit, etc.).

ARTICLE 2
MEMBERS AND OFFICERS

Section 2.1 Membership

- A. Residency. Every Commissioner shall be a resident of the City of Lakewood and the ward from which they are appointed and shall have such qualifications as the City Council deems necessary and desirable in the best interests of the City. At-large members may reside in any ward.
- B. Early Termination of Term – Continuance of Service. A Commissioner appointed to represent a ward who resigns or moves from the ward during their term may continue to serve on the Commission until a successor is appointed. A Commissioner appointed to represent the city at large and who resigns or moves from the city during their term may continue to serve on the Commission until a successor is appointed. The Commission shall encourage City Council to appoint a successor within six (6) months of the termination of the term.

Section 2.2 Appointment

The Commission consists of seven (7) members appointed by the City Council. The City Council will appoint one (1) member from each of the City’s five (5) wards and two (2) additional members from the City at large; provided, however, there shall not be two (2) at-large appointments from the same ward.

Section 2.3 Advising Candidates During the Selection Process

The Commission encourages the City Council Screening Committee to advise candidates applying for appointment to the Commission of the estimated time commitment required for service on the Commission, including regular attendance at meetings and review of staff reports and other materials, and of the need for Commissioners to be familiar with these Rules and Regulations. The Commission further encourages the City Council Screening Committee to ask each candidate during their interview to agree to meet these obligations if appointed. Each candidate shall receive a copy of these Rules and Regulations upon receipt of their appointment.

Section 2.4 Terms of Office

- A. Term of Office. Except as otherwise provided herein, each Commissioner will serve a term of four (4) years. Any Commissioner appointed to fill an unexpired term shall serve until the end of such term. Commissioners may serve a maximum of two (2) consecutive terms. This limitation applies whether the person is appointed as a representative of a ward or as a representative of the city at large; provided, however, for the purposes of this limitation, any person appointed to fill an unexpired term who serves or has served at least one-half of a term shall be considered to have served one (1) full term.
- B. Resignation. The resignation of a Commissioner shall be in writing addressed to the City Council, with copies provided to the City Clerk, the Commission Chair and the Commission Clerk. A letter of resignation may be served via email, in person at a regular meeting of all Commissioners, or by regular mail.

Section 2.5 Clerk to the Planning Commission

- A. The City shall provide the Commission with a Clerk. The Clerk shall not be a member of the Commission but shall be an employee of the City. The Clerk shall serve until replaced by the City.¹
- B. At the direction of the Chair, the Clerk shall be responsible for: (a) attending meetings and hearings; (b) preparing the agendas for meetings; (c) taking and preparing minutes of meetings showing the vote of each Commissioner upon every question; and (d) administering the oath to those who want to testify during quasi-judicial public hearing. The Clerk shall be the custodian of the Commission's records and as such shall prepare all official correspondence, send out all notices, compile records and maintain Commission files.
- C. Before each regular Commission meeting, the Clerk shall have delivered to each Commissioner a packet containing: (a) the agenda for the next meeting; (b) the staff report and any submissions made relative to items on the agenda; and (c) a copy of the minutes of the previous meeting (if available). The Clerk shall be responsible for all digital and physical postings of materials referenced in the Commission packet to locations established annually by the City Council.

¹ Previous versions of these Rules and Regulations and other City documents may refer to the Secretary to the Commission.

Section 2.6 Officers

The officers of the Commission shall be the Chair, Vice-Chair and Secretary. The Commission shall hold its annual election of officers at the first regular meeting after the Commission is seated for the year. The terms of the Chair and Vice-Chair shall be for one year or until the first regular meeting after new Commissioners are seated. All officers shall have the same voting rights as other Commissioners.

- A. Chair. The selection of the Chair shall be held by ballot or roll call vote. The Clerk shall preside until the Chair is elected. In the event of a tie vote, with the tied candidates having a greater number of votes than any other Commissioner running for Chair, the Clerk shall disclose the names of the tied candidates and another ballot shall be taken, until one candidate for Chair has received a majority vote of all seated Commissioners. The Chair shall conduct Commission meetings in accordance with Applicable Law.
- B. Vice-Chair. The Vice-Chair shall be selected in the same manner as the Chair. The Vice-Chair shall perform the same functions as the Chair during the disqualification, absence or disability of the Chair, or may be designated acting Chair at the discretion of the Chair. In case of vacancy in the office of Chair, the Vice-Chair shall succeed the Chair and serve the unexpired term as Chair. A new Vice-Chair shall be selected at the next regular session of the Commission.
- C. Secretary. The Secretary shall be a member of the Commission selected in the same manner as the Chair and Vice-Chair. In the absence of the Chair and the Vice-Chair, the Secretary of the Commission shall preside.

Section 2.7 Compensation

Each Commissioner shall receive such compensation as is set by the City Council, including being reimbursed for actual expenses incurred as a Commissioner. All expenses must be documented to the Clerk.

Section 2.8 Removal of Commissioners

Upon presentation of written charges, and after a hearing thereon, the City Council may remove for cause any Commissioner.

Section 2.9 Vacancies

A vacancy shall exist when any Commissioner dies, resigns, is removed pursuant to City policy, is not reappointed, ceases to be a resident of the City or applicable ward, or becomes an elected official or an employee of the City. The City Council shall appoint a new Commissioner to fill the unexpired term of the Commissioner whose position has become vacant. A Commissioner who ceases to be a resident of the ward may continue to serve until a new Commissioner has been appointed by the City Council.

Should ward boundaries be changed, causing the two at-large Commissioners to reside in the same ward, the at-large Commissioner with the shortest remaining term shall be deemed to have automatically vacated the position. City Council shall thereupon appoint a new at-large Commissioner to serve the balance of the term.

ARTICLE 3
POWERS OF THE COMMISSION

Section 3.1 General Powers and Duties

The Commission may adopt, and amend, reasonable rules and regulations in conformity with Applicable Law, governing its internal operations, and such rules and regulations shall be made available to the public in written or printed form at the office of the Planning Department. The Commission has all the powers and duties of a planning commission in accordance with the ordinances and the Charter of the City of Lakewood.

Section 3.2 Comprehensive Plan

The Commission is responsible for the adoption, amendment, and maintenance of the City's Comprehensive Plan, subject to the approval of the City Council or as provided in the City Charter.

Section 3.3 Matters before the Commission

The powers and duties granted to the Commission in accordance with the ordinances and the Charter of the City of Lakewood include but are not limited to:

Case Type	Commission Authority		
	Decide	Recommend	Other
Allocation Banking Plan Extension	X		
Annexation		X	
Appeals of Director Decisions	X		
Comprehensive Plan, Sustainability Plan, and other Plans			X
Disconnection		X	
Major Subdivision <ul style="list-style-type: none"> • Preliminary Plat • Final Plat 	X		
Major Waiver	X		
Modification		X	
Revocation of Uses	X		
Rezoning <ul style="list-style-type: none"> • Initial Zoning • Rezoning • Legislative Zoning 		X	
Special Use Permit	X		
Vacations			X
Other Legislative Matters			X

Section 3.4 Preliminary Maps

The Commission may hear preliminary map cases in accordance with the Subdivision Ordinance and may decide upon a majority vote.

Section 3.5 Final Plats

The Commission may hear final plat cases in accordance with the Subdivision Ordinance and may decide upon a majority vote.

Section 3.6 Annexations and Disconnections

In accordance with state law, the Commission is authorized to review annexation or disconnection proposals and to make recommendations to the City Council on such annexations or disconnections. The Commission has no authority to approve or deny any annexation or disconnection.

Section 3.7 Rezoning

The Commission shall function as the City Council's fact-finding hearing agency on all rezoning applications. During the fact-finding hearing, the Commission may hear and consider any relevant evidence or statement by staff, relevant parties and the public, including without limitation: applications, staff reports, recommendations and any relevant testimony. The Commission shall forward a recommendation to the City Council on each rezoning proposal.

Section 3.8 Official Development Plan Modifications

The Commission shall review proposed modifications to Official Development Plans in accordance with the Zoning Ordinance and shall consider any relevant evidence or statement including, without limitation: applications, staff reports, recommendations and any relevant testimony. The Commission shall forward a recommendation to the City Council on each Official Development Plan modification proposal.

Section 3.9 Special Use Permits

The Commission shall review special use permit applications as required by the Zoning Ordinance and shall consider any relevant evidence or statement including, without limitation; applications, staff reports, recommendations and any relevant testimony, at a public hearing, and shall by resolution approve, deny or conditionally approve such special use permits in accordance with the standards of the Zoning Ordinance.

Section 3.10 Vacations

In accordance with state law and/or the Subdivision Ordinance, the Commission may review proposals for vacations of rights-of-way for existing, constructed streets. The Commission shall consider at a public hearing any relevant evidence or statement including, without limitation: applications, staff reports, recommendations and any relevant testimony, and shall by resolution recommend to the City Council the approval, denial or conditional approval of the proposed vacation. The Commission may also review and make recommendations on requests for vacations of easements and unconstructed public rights-of-way at the discretion of the Planning Director.

Section 3.11 Appeals

The Commission is authorized to hear appeals as provided for in the Zoning Ordinance.

The Commission may approve, deny or conditionally approve any appeal. When any appeal is filed, the appellant and/or applicant, if applicable, shall file all information to be presented to the Commission no later than three weeks prior to the scheduled date of the appeal hearing. A concurring vote of the majority of those Commissioners present shall be required to approve or deny any matter before the Commission.

Section 3.12 Conditions

The Commission may impose conditions on any recommendation to City Council or on any motion for approval by the Commission, including conditions that are different from those requested by the applicant.

Section 3.13 Other Plans

The Commission shall review all proposed adoptions, changes or amendments to the Comprehensive Plan, Neighborhood Plans, Sustainability Plan and other citywide plans, including Capital Improvement Program, that may be presented to the Commission.

Section 3.14 Other Legislative Matters

The Commission shall review other matters brought to the Commission by staff or City Council. The Commission may make periodic recommendations to the City Council on land use matters, as set forth the Charter.

ARTICLE 4 **CONDUCT OF COMMISSIONERS**

Section 4.1 Robert's Rules of Order

The Commission shall generally follow Robert's Rules of Order as modified by these Rules and Regulations, the Colorado Open Meetings Law, and the Colorado Open Records Law, and all other Applicable Law.

Section 4.2 Right of Floor

No person, including Commissioners, staff, applicants and the public, may speak unless recognized by the Chair.

Meetings held via electronic or telephonic medium shall conform to standard modifications to Robert's Rules of Order, as set forth within Robert's Rules of Order, 12th Ed. 2021.

Section 4.3 Motions

After a motion is made and seconded, the Chair shall open the matter for discussion among Commissioners. After all Commissioners have had an opportunity to speak, the Chair shall instruct the Clerk to conduct a roll call vote. A concurring vote of a majority of those Commissioners present is required to approve or deny any matter before the Commission.

Any amendment to a motion, whether it is for the purpose of adding to, deleting from, or changing the character of the original motion, shall require a majority vote of Commissioners for adoption of the amendment. Following approval of the amendment, the Commission shall return to the main motion as amended.

All votes upon final decisions directly impacting any real property shall be by roll call. On matters of a purely administrative nature, the Chair may call for votes to be registered by ayes and nays or other less formal voting procedure.

With the exception of a motion made to approve or deny an application in a quasi-judicial hearing, the Commission may reconsider any motion made within the same meeting, in accordance with Robert's Rules of Order.

Section 4.4 Conflict of Interest

No Commissioner shall participate in any case in which they have a financial interest in the property or action concerned. Any Commissioner may voluntarily recuse themselves because of any conflict of interest, following disclosure of the nature of the conflict on the record. Upon being recused from a matter pending before the Commission set for quasi-judicial hearing, the Commissioner shall remove themselves from the official seating of the Commission to avoid any perception of seeking to influence other Commissioners but need not remove themselves from the room.

Section 4.5 Commissioners May Not Appear Before the Commission

No Commissioner may appear before the Commission as an applicant, witness or representative in any matter on which the Commission is to make a decision or recommendation.

Section 4.6 Ex parte Communication, Expressions of Bias, Prejudice or Opinion

No Commissioner shall discuss any quasi-judicial matter pending before the Commission with any party or interested person, except City staff, outside of the public hearing. Commissioners may discuss legislative matters and other general matters pertaining to planning and development in the City outside of public hearings, so long as Commissioners comply with the Colorado Open Meetings Law.

No Commissioner shall vote on any quasi-judicial matter on which they have any bias or prejudice or have formed an opinion on the outcome of the matter before the hearing.

Section 4.7 Decorum and Order

The Chair is tasked with enforcing these Rules of Procedure in a manner appropriate for a public meeting to assure efficient and well-run public meetings at which all scheduled business is accomplished, voices are equally heard, and differences of opinion air aired amicably. The Commission expects civility among and between the Commission and members of the public while in meetings. Narrow rules of decorum during public hearings shall be enforced by reminding speakers to limit speech to the matter before the Commission, to return to the issue before the Commission if they go off topic, and to refrain from using excessive profanity. The Chair may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all Commissioners, and shall not be deprived of any of the rights and privileges of a Commissioner by reason of acting as the presiding officer.

ARTICLE 5

MEETINGS AND HEARINGS

Section 5.1 Quorum

A quorum shall consist of five (5) Commissioners. In the event a quorum is not present at a Commission meeting, the Chair, or any Commissioner if no officers are present, shall declare a lack of a quorum and adjourn the meeting.

Section 5.2 Regular Meetings

Regular meetings of the Commission will generally be held at 7:00 p.m. on the first and third Wednesday of each month at the City of Lakewood Council Chambers, 480 South Allison Parkway, except as otherwise designated by the Commission. Changes in meeting times and dates shall be posted with the agenda for such meetings.

Section 5.3 Special Meetings

Special meetings may be called by the Chair and at least two (2) Commissioners, or at the request of a majority of Commissioners. No special meeting shall be called with less than 48 hours' notice to all Commissioners either by personal service or by leaving the notice at the Commissioner's place of residence as set forth in the City's records.

Section 5.4 Study Sessions

Study sessions are informal meetings during which general planning topics are discussed which contribute to the continuing education and training of Commissioners. Study sessions shall be open to the public. Study sessions may be held at the discretion of the Commission. The Commission may prepare a tentative list of items to be considered during the year and may update the list as needed at the discretion of the Chair and the Planning Director.

Section 5.5 Cancellation

If no business is scheduled before the Commission, a meeting may be canceled by the Clerk after consulting with the Chair and by giving notice to all Commissioners at least two hours before the time set for the meeting. Notice to the public of cancellation shall be officially posted at the time such decision is communicated to the Commissioners.

Section 5.6 Open Meetings – Notice – Executive Sessions

All meetings of Commission shall be held within the corporate boundaries of the City and shall be open to the public, except for executive sessions, in conformance with the Colorado Open Meetings Law (COML).

A. Notice of Meeting.

COML 24-6-402(2)(b) and (c) require that any meetings at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or at which three or more members of the public body are in attendance, or are expected to be in attendance, shall be held only after full and timely notice to the public of no less than twenty-four hours before the meeting. Agenda information, and supplemental information, should be made available to the public at the time the meeting notice is posted when possible.

B. Executive session authority.

In accordance with chapter 2.01 of the Lakewood Municipal Code, the Commission, by a two-thirds vote of the members present, may schedule or be recessed to an executive session, which shall be closed to the public, for matters of attorney-client privilege or matters required by federal or state law to be confidential.

Section 5.7 Order of Business at Meetings

The order of business is generally established by the agenda. Changes to the agenda posted for the public will be discussed and acted upon by regular motion of the Commission at the beginning of the meeting. The regular order of business shall be:

- A. Call to Order
- B. Roll Call
- C. Case Items, which may include:
 - a. Allocation Banking Plan Extension
 - b. Annexation
 - c. Appeals of Director Decisions
 - d. Comprehensive Plan, Sustainability Plan, and other Plans
 - e. Disconnection
 - f. Major Subdivision
 - g. Preliminary Plat
 - h. Final Plat
 - i. Major Waiver
 - j. Modification
 - k. Revocation of Uses
 - l. Rezoning
 - i. Initial Zoning
 - ii. Legislative Zoning
 - iii. Rezoning
 - m. Special Use Permit
 - n. Vacations
 - o. Other legislative matters
 - p. Study session topics
- D. Approval of Minutes
- E. General Business
- F. Adjournment

Section 5.8 Public Hearings

- A. The Commission shall hold a public hearing on all applications as required by the Zoning Ordinance, Subdivision Ordinance and Municipal Code.

- B. Any public hearing may be continued to the next regular meeting. If a Commissioner was not present at the initial meeting on a matter that has been continued, the member may participate in and vote on the matter only if they listen to the official recording of the meeting.
- C. During every meeting, prior to the first public hearing, the Chair shall explain to those present the order of business on the agenda.
- D. The Chair shall instruct the Clerk to swear in all individuals who want to testify at any quasi-judicial hearing. All speakers at any form of hearing shall state their name, and either their address or ward, prior to addressing the Commission.
- E. The Chair shall have discretion to limit or expand testimony.
- F. The order of business for each case at a public hearing shall generally be as follows:
 - 1. The Clerk announces the applicant's case;
 - 2. The applicant presents the case;
 - 3. City staff presents the staff report;
 - 4. The Chair opens the Public Comment period, and persons wishing to comment upon the applicant's request may provide relevant testimony and evidence;
 - 5. The Commission may question the applicant, interested persons and staff;
 - 6. The Chair closes the public comment;
 - 7. The Chair calls for a Motion and second.
 - i. The Chair identifies the person making the motion and the second, and the Commission deliberates the motion.
 - ii. The motion may be amended in accordance with the Robert's Rules of Procedure.
 - 8. The Commission makes findings of fact and votes on the pending motion; and
The Chair states the outcome of the vote.
- G. Any materials presented to the Commission during the public hearing shall be identified and entered into the record.
- H. Prior to a vote on an application, the Commission may consider any request by an applicant to continue a case due to changes to the application. In such instance, no case may be continued to the Commission's next meeting, but instead must be continued to no earlier than the second next regularly scheduled meeting in order to allow staff and interested persons adequate time to review the proposed changes.
- I. If, due to a declared conflict of interest, a quorum exists for purposes of holding a meeting, but does not exist for purposes of a public hearing or other item on the agenda, such item shall be rescheduled to the next hearing date at which a quorum will be available to hear and decide such matter.

Section 5.9. Decisions

- A. The Commission, by vote of a majority of those Commissioners present, shall approve, modify or deny, or recommend approval or denial of (as applicable), all matters before the Commission.
- B. Cases pertaining to the same parcel of property may be considered together or sequentially, but a separate motion shall be required for each individual case.

ARTICLE 6
APPEALS

Section 6.1 Appeal

Any decision of the Commission for which the Commission has final decision-making authority pursuant to Title 16 or Title 17 of the Lakewood Municipal Code regarding either Subdivision or Zoning may be appealed to the Jefferson County District Court in accordance with the Colorado Rules of Civil Procedure. Any other decision of the Commission may be appealed in accordance with the process outlined in the relevant portions of the Municipal Code.

Adopted by the Lakewood Planning Commission this 21st day of July, 2021

RECOMMENDED AND APPROVED:

By:

By:

Travis Parker, Planning Director

Alan Heald, Chair
Planning Commission

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

APPENDIX A

A. What constitutes a meeting?

A meeting is “any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communication. All meetings of a quorum or three or more members of any local public body, whichever is fewer, at which any public business is discussed or at which any formal action **may be taken** are declared to be public meetings open to the public at all times. Meetings do not include chance meetings or social gatherings at which discussion of public business is not the central purpose, such as holiday gatherings.

Note: If a subcommittee is comprised of three or more members of any local public body, and the subcommittee meets to discuss the business of the body, then the rules of Colorado Open Meetings Law (COML) apply.

B. Meetings held via email or telephonic communication.

All communications between a quorum or three or more members of any board, commission, or committee, whichever is fewer, at which any business of the board, commission, or committee is discussed, or at which any formal action may be taken, are declared to be public meetings open to the public at all times.

The members may not do indirectly--through an agent, through e-mail, through serial meetings--what they are prohibited from doing directly. Once an indirect interactive communication becomes a “meeting” as defined by COML then the interactive communication is subject to the COML requirements. For instance, if e-mail between members becomes extensive enough that it amounts to a discussion between a majority of a quorum of the business or affairs of the body, the COML's procedural safeguards are triggered.

Note: COML allows for meetings or participation in meetings to take place by telephone, teleconference, or by other electronic means, as long as the public is not excluded. If a board, commission or committee decides to allow for any form of electronic meeting, such meetings shall comply with any electronic meeting policy adopted by the City Council, as well as all Applicable Law.