

RESOLUTION NO: 2016-05
A RESOLUTION OF THE PLANNING AND ZONING
COMMISSION OF THE TOWN OF EDGEWOOD

WHEREAS, Section 3-19-3 of the NM Statutes provides, in part that "A planning commission shall adopt rules for the transaction of business"; and

WHEREAS, the Planning and Zoning Commission of the Town of Edgewood (hereinafter called "Commission") desires that its business be conducted in a fair, impartial and orderly manner for the public good;

NOW THEREFORE, be it resolved that the following rules are established for the transaction of business before the Commission this 10th day of May 2016:

1) Members and Officers:

- a. By Town Ordinance 2014-05 the Commission shall consist of five (5) members, a minimum of three (3) of whom must reside within the municipal boundaries, and one alternate, appointed by the Mayor with the consent of the Town Council. Commissioners serve two-year terms, on a staggered basis.
- b. Terms for new Commissioners begin upon swearing in at a regularly scheduled Planning Commission meeting following appointment.
- c. The Commission at its first regularly scheduled meeting each January elects as Officers its Chairman, Vice-Chairman and Secretary, to serve one-year terms as outlined in Ordinance 2014-05.
 - i. **Chairman:** The duties of the Chairman include the following: presiding at all meetings of the Commission, calling special meetings as necessary, in coordination with the Town Administrator (or their designee), preparation of the meeting agenda, signing documents of the Commission, assuring that all actions of the Commission are taken in accordance with Town Ordinances and other relevant laws and regulations, representing the Commission and speaking on its behalf, where so prescribed in the Land Use regulations and ordinances of the Town of Edgewood.
 - ii. **Vice-Chairman:** The duties of the Vice-Chairman include the following: presiding or performing all the duties of the Chairman during the absence, disability or disqualification of the Chairman; reviewing and signing documents of the Commission.
 - iii. **Secretary:** The duties of the Secretary include the following; affirming and maintaining copies of the minutes of all meetings, and preparing or informing the Commission of correspondence relating to the business of the Commission. The recording and drafting of meeting minutes may be delegated to the Town Staff at the discretion of the Secretary.

2) **Meetings:**

- a. **Regular Meetings:** Regular meetings are held on the ~~1st and 3rd~~ of each month, at the Edgewood Community Center at 6:00 PM, or, if that facility is not available, at a location in the Town of Edgewood fully accessible to the public.
- b. **Special Meetings:** Special meetings may be called by the Chairman or by a majority of Commissioners for a time and date certain at a location fully accessible to the public in the Town of Edgewood.
- c. **Meeting Notices:** Public notices of regular and special meetings of the Commission shall specify the date, time, location and subject matter of the meeting.
- i. Where notice requirements are not otherwise specified by Ordinance, notices of regular meetings are posted a minimum of seven calendar days in advance of the meeting date and in accordance with the Open Meetings Act of the New Mexico Statutes.
 - ii. Where notice requirements are not otherwise specified by Ordinance, notice of special meetings are posted a minimum of three calendar days in advance of the meeting date and in accordance with the Open Meetings Act of the New Mexico Statutes.
 - iii. Notices for regular and special meetings are posted at the following places within the Town of Edgewood:
 1. Municipal Offices: 1911 Route 66
 2. Smith's Food & Drug Center: 2B State Road 344
 3. Edgewood Community Library: 95 State Road 344
 4. Mr. Gas Mart: #1 State Road 344
 5. Edgewood Community Center: 27 E. Frontage Road
 6. Mail & Copy Business Center: 2 Marietta Court
- d. **Quorum:** A majority of the members of the Commission, but no less than three (3), shall constitute a quorum for the transaction of business.
- e. **Duration of Meetings:** Regular and Special meetings shall not extend beyond the hour of 10:00 p.m. unless agreed upon at the time the meeting takes place by a majority of Commission members in attendance and affirmed by any applicants with matters still pending. The Commission will make every effort to hear and consider all agenda items on a regular or special meeting prior to 10:00 p.m. If the Commission is unable to complete all agenda items by such hour, a Motion to reconvene at a date certain is in order. Notice of the time and place of the reconvened meeting will be posted within 24 hours of the approved Motion to Reconvene and such reconvened meeting will comply in all respects with the Open Meetings Act of the New Mexico Statutes. Reconvened meetings will be held only on an exceptional basis in compliance with the Ordinances.
- f. **Agenda:** The Commission's agenda for regular meetings shall proceed in the following sequence, unless otherwise agreed upon by vote of a majority of the Commission present:

call to order, approval of the agenda posted in advance; Commission business items, to include approval of minutes of prior meetings; applications for subdivision plat approval requests, zoning items, public comment, matters from the Chair and Commissioners, matters from the Town Staff, calendar update and adjournment.

- g. **Minutes:** Minutes are prepared using notes, electronic recordings or other media recordings taken at the meetings. The minutes include the following; the date, time and place of the meeting; the names of Commissioners in attendance and those absent; the names of Town Staff present; the agenda items; the substance of the proposals considered; names of citizens who address the Commission; a record of any decisions and votes taken which show how each member voted.
 - h. **Testimony under Oath:** All persons giving testimony before the Commission shall be sworn in under oath before proceeding by the Town Administrator, or other qualified notary public, and shall be obligated thereby to testify in a truthful manner.
 - i. To assist in the orderly presentation of testimony and maintenance of minutes and other Commission records, all persons wishing to testify (and attorneys representing clients) are asked to provide their names and addresses on the sign-in sheet prior to appearing before the Commission.
- 3) **Conduct of Meetings:** Roberts Rules of Order, newly Revised is hereby adopted for the governance of the Commission in cases not otherwise provided for in these rules.
- a. When conducting hearings in performance of its quasi-judicial functions, the Commission shall follow the due process requirements of State of New Mexico ex. Rel. Battershell v. City of Albuquerque. 108 N.M. 658, 77 P2d 386 (Ct. App. 1987)
 - b. **Presentation by Applicants and the Public:** Applicant will be allowed up to 15 minutes to make their presentation. At the conclusion of an applicant's presentation, Commissioners may question the applicant to assist their understanding. Persons in favor of the application will be invited to speak, then person's opposed to the application will be invited to speak. Proponents, opponents and others testifying are asked to confine their remarks to matters relevant to the commission's decision-making responsibilities concerning the pending application. The applicant may cross-examine those appearing in support of, in opposition to, or presenting testimony concerning his/her application. Speakers will be called to the podium by the Chairman.
 - c. The Town Administrator (or their designee) will acknowledge and enter into the record signed, written communications received from the public concerning the pending application at least five (5) working days prior to the public hearing and those communications will be distributed to the Commission and the applicant by the Department staff. No written documents shall be distributed to the Commission except through the Community Planning and Development Department.
 - d. At no time will the public be allowed to confront the applicant or members of the Planning Commission using derogatory language or in an unprofessional manner. The Chair shall have the discretion to require a person to leave the hearing if this occurs.

After the hearing is closed, discussion will be limited to the Commission and the Staff.

- 4) **Voting and Decisions by the Commission:** Decisions by the Commission shall be made in the affirmative on motion by a Commissioner, duly seconded. Approval of a motion shall occur on the affirmative verbal vote of a majority of Commissioners present. If the decision is unanimous, the Chairman shall so state for the record. In the event of a divided vote, the Chairman shall announce those Commissioners recorded in favor, those recorded against, and those abstaining. Voting in absentia, fax or other written or electronic means is not permitted. Voting during closed sessions or by secret ballot is not permitted. The maker of a motion shall set forth supporting reasons (findings) in the text of his/her motion to assist in understanding the decision to be made by the Commission.

- 5) **Completeness of Materials and Record of the Meeting:** It is the responsibility of applicants to present all relevant written material in accordance with Ordinances as required and present all relevant testimony prior to decisions by the Commission. Applicants will not be permitted to supplement or add new documents after the Commission's action. All testimony, information and documents submitted to the Commission prior to its decision and the transcript of the meeting will constitute the record in the event of an appeal.

- 6) **Postponement of Decisions:** Following receipt of all testimony, the Commission may choose to keep the record open for a period not to exceed the time until the next regularly scheduled meeting, and reserves its right to postpone vote and decision making to a subsequent meeting, unless town ordinances or laws require a decision be made with a specific time.

- 7) **Distribution of Materials to Commissioners:** Agenda and other written materials assembled for distribution to Commissioners by the Community Planning & Development Department shall be provided electronically via Town e-mail, and copies placed in the cabinet provided for that purpose outside of the Municipal Offices. It is the responsibility of each Commissioner to check periodically his/her name slot to remove materials for preparation in advance of meetings.
 - a. The Commission requests staff of the Community Planning & Development Department to distribute all written material needed for preparation for decision-making by the Commission at least five (5) working days prior to regular or special meetings.
 - b. The Commission requests that except in unusual circumstances, written communications from professionals such as legal counsel or professional engineers retained by the Town regarding matters pending before the Commission shall be distributed at least five (5) working days prior to regular or special meetings.

- 8) **Ex Parte Communication:** When an application or other request is placed on the agenda for a regular or special meeting it becomes a matter within the jurisdiction of the Commission and subject to the legal restraints on ex parte communications with

Commissioners. Undisclosed ex parte communications could compromise the fair and open purposes of these rules for the transaction of Commission business. If a Commissioner believes he/she has been contacted ex parte on a matter pending before the Commission, it is his/her obligation so to inform the other members of the Commission prior to the matters consideration and, if the ex parte communication was in writing, submit it as part of the record for the meeting.

- 9) **Conflicts of Interest:** Applications, presented to the Commission for decision may, on occasion, present the potential for conflicts of interest for individual Commissioners. A conflict could exist if a decision conferred a direct or indirect financial or personal benefit to a member of the Commission or benefit someone with whom the Commissioner has a business or kinship relationship.

It is the obligation of each Commissioner to declare for the record any instance where a conflict of interest or the appearance of a conflict of interest might exist with regard to matters pending before the Commission. Such Commissioner must then withdraw from further deliberations, including participation in discussion, and any decision making and should leave the room where the hearing is taking place.

- 10) **Site Visits:** The Commission may conduct properly noticed meetings for the purpose of site visits. The objective of the site visit is to provide Commissioners with a geographic orientation. Members of the public may attend, however, no public testimony, substantive discussion of the issues or exchange of evidence will be allowed. In addition, ex parte communication with members of the Commission is prohibited.

- a. Site visits will be publicly noticed and will normally take place on the day of the planning & zoning commission meeting giving sufficient time to arrive back at the Community Center at least 15 minutes before the start of the commission meeting.
- b. Commissioners should either travel to the site at the same time, if present at the site before the visit begins particular care should be taken to ensure that they maintain their objectivity. Hospitality or lifts should not be accepted from applicant or objector as this could be seen to show favor.
- c. Members may ask the Town Administrator (or their designee) for factual clarification of any planning matter relating to the proposal or surrounding land, for example, distances to adjoining or objectors' properties. At no time during the site visit should commissioners debate or comment on the planning merits of a proposal.
- d. The Commission attendance at the site visits will be noted in the minutes.

- 11) **Amendments to these Rules:** These rules may be amended at any regular or special meeting by vote of a majority of the entire membership of the Commission, provided that a written copy of the proposed amendment has been distributed to each member of the commission seven days in advance of such meeting.

PASSED AND ADOPTED THIS 10th day of May, 2016

Dan Thompson, Vice Chairman

ATTEST:

Cheryl Huppertz, Secretary