

CITY OF EDGEWATER

RESOLUTION 2015-03

**A RESOLUTION APPROVING THE CITY OF EDGEWATER PLANNING
COMMISSION BYLAWS**

WHEREAS, the Edgewater Charter, at Section 11.1(6)(b), authorizes each board and commission of the City to adopt and operate in accordance with its own rules of procedure, which rules of procedure are not to take effect until reviewed and approved by the City Council; and

WHEREAS, at its public meeting on January 28, 2015, the City of Edgewater Planning Commission reviewed and approved, subject to the approval of the City Council, amendments to its Bylaws; and

WHEREAS, the City Council has reviewed the revised "City of Edgewater Planning and Zoning Commission Bylaws" that are attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EDGEWATER, COLORADO THAT:

Section 1. The City Council hereby approves the "City of Edgewater Planning and Zoning Commission Bylaws" that are attached hereto.

INTRODUCED, READ AND ADOPTED this 5th day of February, 2015.

/s/ Bonnie McNulty, Mayor

ATTEST:

/s/ Elizabeth A. Hedberg, MMC
City Clerk

APPROVED AS TO FORM:

/s/ Thad Renaud, City Attorney

CITY OF EDGEWATER
PLANNING AND ZONING COMMISSION BYLAWS

ARTICLE I - Purpose and Statutory Authority

Section 1 - Adoption of Comprehensive Plan

As provided in §11.3 of the City Charter, the Planning and Zoning Commission (“Commission”) shall prepare and adopt, and may amend from time to time, the Comprehensive Plan for the physical development of the City. No such comprehensive plan or any amendment thereto, shall become effective until approved by the *City Council*. The Commission shall hold the initial hearing relative to proposed subdivision plats, proposed rezoning, and proposed changes in the zoning *ordinance*, and shall make recommendations thereon to the *Council*. The Commission’s responsibilities for preparing and adopting a Comprehensive Plan are established in C.R.S. §§31-23-206 through 31-23-209.

Section 2 - Site Development Plan Applications

The Commission is responsible for holding public hearings relative to certain Site Development Plan (“SDP”) applications as provided in § 17-4-40 of the Edgewater Municipal Code (“Code”).

Section 3 - Planned Unit Development Applications

The Commission is responsible for holding initial public hearings relative to Planned Unit Development (“PUD”) applications and making recommendations thereon to the City Council as provided in § 16-28-70 of the Code.

Section 4 - Re-Zoning Applications

The Commission shall conduct initial public hearings and make recommendations to the City Council regarding zoning changes as described in § 16-25-50 of the Code.

ARTICLE II - Commission Members, Tenure and Vacancies

Section 1 - Number and Term

The Commission shall consist of five (5) members to be appointed by the Mayor. The members shall serve overlapping five-year terms. (Charter §11.2) To achieve overlapping terms as required by the City Charter, each member of the Planning and Zoning Commission shall be assigned to one of the five defined Planning and Zoning Commission terms.

Ref: "APPENDIX A" for term definitions.

Section 2 - Appointments to Commission

- a) The Mayor shall not make any appointment to the Commission without posting and publishing notice of any vacancy thereon at least fourteen (14) days prior to the appointment, and without considering the recommendations of the Planning & Zoning Commission. (Charter §11.1 (8))

Section 3 - Officers

The Commission shall elect its own Chair and Vice-Chair. (Charter §11.1(6)(a))

Section 4 - Rules of Procedure

The Commission shall adopt and operate in accordance with its own rules of procedure. Such rules shall not conflict with the City Charter or Code, and shall not take effect until approved by the City Council. (Charter §11.1(6)(b))

Section 5 - Eligibility

The members of the Commission shall be *registered electors*, and shall have been residents of the City for at least one (1) year immediately preceding the date of their appointment. No member shall be an elected *official, officer, or employee* of the City. (Charter §11.2 (2))

Section 6 - Removal

As set forth in C.R.S. §31-23-203(3) and §11.1(5) of the City Charter, members may be removed, after public hearing, by the Mayor, for inefficiency, neglect of duty, or malfeasance in office.

Section 7 - Vacancy

Should any vacancies occur among the Commission by reason of death, resignation, disability or otherwise, the City Clerk shall post and publish notice thereof in accordance with the provisions of Section 2 herein. Pursuant to C.R.S. §31-23-203(3), vacancies occurring other than through the expiration of a term shall be filled for the remainder of the unexpired term.

Section 8 - Resignation

Any member wishing to resign shall provide written notice to the Mayor with as much notice as practical .

Section 9 - Absence

Any member of the Commission with three (3) absences from consecutive regular or special meetings, or four (4) absences from any regular or special meeting during twelve (12) consecutive months may be recommended for dismissal to the Mayor upon the majority vote of the Commission. The Mayor shall receive such recommendation and advise the Commission and member in writing of his or her determination and action.

ARTICLE III - Duties and Responsibilities of Officers, Assistants and Members

Section 1 - Officers and Assistants

A. Officers:

- 1) The Chair shall preside at all regular meetings, special meetings, public hearings and committee meetings of the Commission. The Chair shall certify the written record of all business transacted by the Commission and certify all maps, records and reports of the Commission. The Chair or its designee shall assist the City Clerk in preparing the Commission Agenda.
- 2) The Vice-Chair shall in the absence of the Chair or in the case of the Chair's inability to act, have all the powers necessary to function as the Chair.
- 3) In the event both the Chair and the Vice-Chair are absent from a meeting, the clerk, or in the event there is not a clerk, a member of the Commission shall call the Commission to order and call the roll. If a quorum is present, the Commission shall elect, by a majority vote of the members present, an Acting Chair who will preside over the meeting until the arrival of the Chair or Vice Chair, at which time the Acting Chair shall relinquish the chair upon conclusion of the business immediately before the Commission.

B. Assistants:

1) City Clerk:

- a) The City Clerk notifies Commission members of the business to be brought before the Commission, and serves public notice of all hearings and public meetings of the Commission in accordance with the City Charter and Edgewater Municipal Code.
- b) The City Clerk or designee records Commission meetings, including all public hearings, for retention as a public record of those meetings. The City Clerk or designee submits the minutes of prior Commission meetings, including any findings or recommendations, to the Commission for approval.

- c) The City Clerk keeps on file the official records of the Commission.
 - d) The City Clerk's designee may be a City employee or, with approval of the Commission, a volunteer designated to serve in such capacity for not fewer than six (6) months. The title of a designee from the City Clerk's office shall be "Planning and Zoning Commission Clerk."
- 2) City Planner
- a) The City Planner prepares evidence and data regarding matters to come before the Commission and submits this data and evidence to the Commission in a timely and acceptable form.
 - b) The City Planner serves as liaison between the Commission and other City departments and boards and between the Commission and applicants appearing before the Commission

Section 2 - Election of Officers

- A. The Commission shall nominate and elect by a majority vote of the entire membership of the Commission a Chair and a Vice-Chair from within its members. All officers shall serve a one-year term. Officers shall be eligible for re-election to subsequent terms without limitation as to the number of consecutive terms served. Elections shall take place during the first regularly scheduled meeting of each calendar year.
- B. If the Chair is vacated:
The Vice-Chair shall be named as the new Chair unless he or she refuses to assume the office of Chair. If the Vice-Chair so refuses, or if the office of Vice-Chair is also vacant, a new Chair shall be elected as soon as practical. All current Commissioners are eligible for nomination. The new Chair shall serve the remainder of the term.
- C. If the Vice-Chair is vacated:
A new Vice-Chair shall be elected as soon as practical. All current Commissioners are eligible for nomination excluding the current Chair. The newly elected Vice-Chair shall serve the remainder of the term.

Section 3 - Compensation

All members of the Commission shall serve without compensation.

ARTICLE IV - General Procedures

Section 1 - Meetings

A. Public Notice and Public Comment

- 1) All meetings shall be posted and published as required by the City Charter and applicable state and federal laws.
- 2) All meetings shall provide members of the public an opportunity to address the Commission.
- 3) All meetings for the transaction of business shall be open to the public, except that the Commission may go into executive session for the purpose of considering matters permitted by the statutes, as from time to time amended, to be considered in executive session. No formal and legally binding action shall be taken at any such executive session.

B. Quorum.

- 1) A quorum of the Commission shall be a majority of the entire membership of the Commission. No official business of the Commission shall be conducted without a quorum.
- 2) If a quorum is not present a member of the Commission shall adjourn the meeting due to lack of a quorum.

C. Regular Meetings.

Regular meetings of the Commission shall be on the third Wednesday of each month at 7:00 p.m., in the City Council Chambers at City Hall. Any change in the regular meeting date shall be made by the majority vote of the entire Commission.

Any regular meeting may be adjourned to a date certain by the majority vote of the members present. Notice of any such change shall be given to each member. A regular meeting may be canceled or rescheduled by the Commission at a prior meeting. If there are no hearings, reports or other business to bring before the Commission, the City Clerk shall notify the Commission members of the cancellation at least 48 hours prior to the meeting.

D. Special Meetings.

Special meetings may be called by the Chair or by a majority vote of the entire membership of the Commission. Notice of any special meeting of the Commission shall be given to all members at least 48 hours in advance of such meeting.

E. Minutes.

The City Clerk or designee shall keep the minutes of all Commission meetings. The minutes shall become public record after proper certification as to their accuracy. The approved minutes of the Commission shall be retained in the City Clerk's office. The adopted minutes shall become public record as required by law. (CRS Title 24, Article 72, Part 2)

Section 2 - Order of Business

The order of business shall be by Agenda. The Commission Chair or its designee shall assist the City Clerk in preparing the Commission Agenda prior to the preparation of Commissioner Packets.

Section 3 - Matters of Business

All formal matters decided by the Commission shall be introduced by motion. Recommendations to City Council shall be by Resolution. The City Attorney and the City Planner shall review all resolutions prior to being placed on the agenda.

Section 4 - Voting

- A. All members have the right to full participation of debate and voting at all meetings. Each member of Commission shall be entitled to one vote on all matters that come before the Commission. No proxy votes shall be allowed.
- B. Any Commissioner shall be permitted to explain his/her vote.
- C. A Commissioner may change his/her vote either:
 - 1) Before the result has been announced, but not thereafter, or
 - 2) Upon the proper reconsideration of the question, as defined by Robert's Rules of Order.
- D. Any Commissioner absent from a public hearing shall not vote on matters regarding said public hearing, unless such Commissioner has reviewed the tapes and any documentary evidence related to the portions of the public hearing at which he/she was not present.
- E. Voting shall be by show of hands, voice (ayes and nays) or electronic as permitted by the City Charter. Members must be present to vote.
- F. All advisory actions must be approved by a majority vote of the members present.
- G. Comprehensive planning matters must be approved by a majority vote of the

entire membership of the Commission.

- H. The Regular Meeting Date shall be established by a majority vote of the entire membership of the Commission.
- I. No Commission member shall be permitted to abstain from voting, unless he/she indicates a conflict of interest.
 - 1) As defined in §21.11 by the City Charter, a “conflict of interest,” for purposes of this Article, means a pecuniary, property or commercial benefit of a Commissioner, or of any *relative* of a Commissioner, but does not include any matter involving the common public interest or any matter in which a similar benefit is conferred, or is available to all persons or property similarly situated.
 - 2) If a member of the Commission intends to abstain from voting on the basis of conflict of interest, such intention shall be stated at the beginning of the hearing or at such time as such personal bias or conflict of interest is ascertained.
 - 3) If the Commission determines that disqualification is necessary, the disqualified member shall not participate in the discussion and shall not vote on the matter.
 - 4) If the abstention of a member results in the loss of a quorum, no action will be taken.
 - a) If all members of the Commission are present and abstentions result in the Commission’s inability to take action, the Commission shall inform the City Council that the Commission was unable to take action and that no recommendation could be made. The matter shall then move directly to the City Council.
 - b) If one or more members of the Commission are absent, and abstentions result in the loss of a quorum, the hearing shall be opened and immediately continued to a date certain.
- J. In the case of a tie vote on any motion, the original motion is lost and the Chair shall reopen the discussion to solicit a second motion. A majority vote to approve or deny the second motion shall constitute the Commission’s final recommendation on the motion. If the Chair is unable to secure a second motion, or if there is a tie vote on the second motion, the motion shall be considered defeated.

ARTICLE V - Rules of Order

Unless the Bylaws specifically state otherwise, Robert’s Rules of Order Newly Revised (RONR) shall govern the proceedings of the Commission.

ARTICLE VI - Public Hearings

In addition to those hearings required by law, the Commission may, at its discretion, hold public hearings when it decides that such hearings will be in the public's interest. Such hearings shall be posted and published as required by law.

ARTICLE VIII - Amending the Bylaws

These Bylaws may be amended at any Commission meeting provided that notice of the proposed amendment is given to each member in writing at least 48 hours prior to the meeting. The affirmative vote of a majority of the entire membership of the Commission shall be required for the adoption of any proposed amendment to the Bylaws. It shall be the responsibility of the Commission to review these Bylaws each December to ensure their compliance with the City Charter and Edgewater Municipal Code. Any adopted amendments shall not take effect until approved by the City Council.

APPENDIX A

Planning and Zoning Commission **Term Definitions**

To achieve overlapping terms as required by the City Charter, each member of the Planning and Zoning Commission shall be assigned to one of the following terms.

Ref: Charter § 11.2

Term #1 – Expiries August 31st, 2015, 2020, 2025, 2030, etc. in 5-year increments

Term #2 – Expiries August 31st, 2016, 2021, 2026, 2031, etc. in 5-year increments

Term #3 – Expiries August 31st, 2017, 2022, 2027, 2032, etc. in 5-year increments

Term #4 – Expiries August 31st, 2018, 2023, 2028, 2033, etc. in 5-year increments

Term #5 – Expiries August 31st, 2019, 2024, 2029, 2034, etc. in 5-year increments

At no time shall a Commissioner's term be defined as anything other than that which is listed above. At no time shall a term have more than one Commissioner assigned to it.