



MIDVALE

Midvale City
Planning Commission
Bylaws & Rules of Procedure

Adopted July 11, 2001
Amended July 11, 2007
Amended July 9, 2008
Amended February 8, 2012
Amended June 25, 2014
Amended April 8, 2015
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MIDVALE CITY PLANNING COMMISSION BYLAWS AND RULES OF PROCEDURE

SECTION 1. GENERAL PROVISIONS

1.1 State Statute (10-9a-301 and 10-9a-302)

A. Ordinance Establishing Planning Commission; Ordinance Requirements; Compensation. (1)

(a) *Each municipality shall enact an ordinance establishing a planning commission.*

(b) *The ordinance shall define:*

- (i) *the number and terms of the members and, if the municipality chooses, alternate members;*
- (ii) *the mode of appointment;*
- (iii) *the procedures for filling vacancies and removal from office; (iv) the authority of the planning commission;*
- (v) *subject to Subsection (1)(c), the rules of order and procedure for use by the planning commission in a public meeting; and*
- (vi) *other details relating to the organization and procedures of the planning commission.*

(c) *Subsection (1)(b)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.*

(2) *The legislative body may fix per diem compensation for the members of the planning commission, based on necessary and reasonable expenses and on meetings actually attended.*

B. Planning Commission Powers and Duties. *The planning commission shall make recommendations to the legislative body for:*

- (1) *a general plan and amendments to the general plan;*
- (2) *land use ordinances, zoning maps, official maps, and amendments;*
- (3) *an appropriate delegation of power to at least one designated land use authority to hear and act on land use applications;*
- (4) *an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and*
- (5) *application processes that:*
 - (a) *may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and*
 - (b) *shall protect the right of each:*
 - (i) *applicant and third party to require formal consideration of any application by a land use authority;*
 - (ii) *applicant, adversely affected party, or municipal officer or employee to appeal a land use authority's decision to a separate appeal authority; and*
 - (iii) *participant to be heard in each public hearing on a contested application.*

SECTION 2. APPOINTMENT AND TERMS OF MEMBERS

2.1 Membership, Appointment, Compensation, Rights & Attendance

A. Membership. *The Planning Commission (hereinafter “Commission”) shall be comprised of five Members and two Alternate Members. These Members shall be appointed by the Mayor with the advice and consent of the City Council from among people residing in Midvale. In so far as possible, efforts shall be made to appoint Members from each of the five council districts with equal consideration to include various professional, neighborhood and community interests’ representation.*

Member. *A Member with full voting rights on Commission decisions and actions.*

Alternate Member. *A Member intended to temporarily fill in for a Member when the Member is not in attendance. Alternate Members are expected to attend and participate in meetings in the same manner as a Member, with the exception of voting when all Members are present. Alternate Members shall hold a first or second alternate position within the Commission, with the first alternate filling in for the first vacancy.*

B. Appointment. *Members of the Commission shall serve for a term of four years and until a successor is appointed, provided that the term of the first Members shall be such that the terms of one Member shall expire each year. Members may serve a maximum of two consecutive terms. Alternate Members shall serve no more than two consecutive terms, however, an Alternate Member who subsequently becomes a Member shall not be prevented from serving two consecutive terms in that capacity. Vacancies shall be promptly filled for the remainder of the unexpired term. An unexpired term shall not be counted towards the maximum number of terms.*

C. Compensation. *Members of the Commission, to include alternates, may, within budgetary constraints, be paid per diem compensation for necessary and reasonable expenses for each meeting attended; payment to be made quarterly.*

D. Rights.

Explaining the Vote. *After the vote is taken, any Member of the Commission desiring to explain their vote shall be allowed an opportunity to do so.*

Not to Vote Unless Participating in Meeting. *No Member of the Commission shall be permitted to vote on any question unless that Member is present physically or through appropriate electronic communication for the duration of the item, including when the vote is taken and the result announced. Appropriate electronic communication is defined in Chapter 2.36 of the Midvale Municipal Code.*

Resources. *All Commission Members shall have access to the Midvale City Zoning*

and Subdivision Ordinance and the Midvale City General Plan.

E. Attendance. Members of the Commission, including Alternate Members, are expected to attend all meetings of the Commission to the best of their ability. In the case of an anticipated absence from a meeting, the Commission Member shall advise the City Planner or Chair. A leave of absence for an extended period of time may be granted by the consent of a majority of the Commission.

2.2 Cause for Dismissal of Members

An appointed Member may be dismissed from the Commission by action of the Mayor and City Council for cause regarding the following:

- Absence from three consecutive regular meetings or four regular meetings within a calendar year without being excused by the City Planner or Chair;*
- Conduct deemed to be egregiously insulting or offensive to the public, City Officials or Commission Members;*
- Malfeasance in office or other illegal activities; or*
- Conduct in violation of the Midvale City Planning Commission Bylaws.*

SECTION 3. CONDUCT OF COMMISSION MEMBERS

3.1 Conflict of Interest

All Commission Members shall abide by Midvale City's conflict of interest provisions found in Chapter 2.16 of the Municipal Code. A conflict of interest is defined as gaining a private benefit either directly or indirectly, or material personal gain or advantage to relatives, friends or groups and associations which hold some share of a person's loyalty. Mere membership itself, in a group or organization, shall not be considered a conflict of interest as to commission action concerning such group or association unless it is concluded that such membership in itself would prevent an objective consideration of the matter.

A Commission Member may declare a conflict of interest from specific agenda items. Members of the Commission who feel they or any other member of the Commission may have an actual, apparent, or reasonably foreseeable conflict of interest on any matter that is on the Commission agenda shall explain the apparent conflict to the Commission. The Commission may then vote to decide whether the requested disqualification is justified. After a conflict of interest is determined, a Commission Member shall leave the room for that item and not participate in the discussion and vote on that matter, nor attempt to use their influence with other Commissioners before, during or after the meeting.

3.2 Personal Bias

Commissioners should at all times avoid stating personal biases and preferences as justification for conditions imposed. Conditions of approval shall be related to a legitimate governmental purpose as outlined in the Zoning Ordinance of Midvale City.

3.3 Disclosure Required

Every Commission Member, who is an officer, director, agent, employer, or employee of any business entity or the owner of a substantial interest in any business entity subject to Midvale City regulation, shall disclose any such position or employment and the nature and value of such position or employment. This disclosure shall be made in a sworn written statement on a form provided by the City Recorder within 30 days after appointment, and during January of each year if any changes have occurred since the previous disclosure. Disclosure statements are considered public records and shall be made available for inspection by members of the City Council and the public upon request.

SECTION 4. ORGANIZATION

4.1 Chair, Vice Chair and Chair Pro-Temp

The Commission, at its first regular meeting in January of each year, shall select a Chair and Vice Chair. The Chair shall preside at all meetings of the Commission and shall provide general direction. No Member shall serve as Chair for more than two consecutive years. In the absence of the Chair, the Vice Chair shall preside over the meeting. In the absence of the Chair and the Vice Chair, a Member by a majority vote of the Commission Members present shall serve as Chair Pro-Temp. The Chair Pro-Temp shall perform all of the duties of the Chair for that particular meeting only.

4.2 Duties of the Chair

- 1. To call the Commission to order on the day and the hour scheduled and proceed with the order of business.*
- 2. To announce the business before the Commission in the order in which it is to be acted upon.*
- 3. To receive and submit in the proper manner, all motions and propositions presented by the members of the Commission.*
- 4. To put to vote all questions which are properly moved, or necessarily arise in the course of proceedings, and to announce the results of the motions.*
- 5. To inform the Commission, when necessary, on any point of order or practice. In the course of discharge of this duty, the Chair shall have the right to call upon legal counsel for advice.*
- 6. To move the agenda along, hold down redundancy by limiting time allowed for comments if necessary, set guidelines for public input, and reference handouts and procedures during meetings.*
- 7. To recognize speakers and commissioners prior to receiving comments and presentations.*
- 8. To recognize Commission Members leaving before the meeting is adjourned or participating in the meeting after the formal roll call is taken.*
- 9. To maintain order at the meetings of the Commission.*

10. *To authenticate by signature, when necessary, or when directed by the Commission, all of the acts, findings and orders, and proceedings of the Commission, including subdivision plats following approval by the City Council.*

4.3 Duties of the Vice Chair

The Vice Chair shall perform all of the duties of the Chair in his/her absence.

4.4 Duties of the Chair Pro-Temp

The Chair Pro-Temp shall perform all of the duties of the Chair in the absence of the Chair and Vice Chair for that particular meeting only.

4.5 Secretary

The Community Development Department staff (hereinafter “staff”) shall serve as secretary of the Commission. The secretary shall assure the construction and maintenance of the public record; record the proceedings of all hearings and meetings; prepare the minutes of the Commission; sign all documents of the Commission; perform other duties as specified by the Commission.

SECTION 5. MEETINGS

5.1 Open and Public Meetings Act

- A. *All meetings shall comply with Utah Code Title 52, Chapter 4 regarding rules and procedures for open and public meetings.*
- B. *Training. All Commissioners must annually attend a training session regarding open and public meetings.*
- C. *Meeting Minutes. Written minutes shall be reviewed and approved by the Commission within 30 days after holding the meeting that is subject of the minutes, with the following exceptions in which case the time will be extended as approved by the Chair:*
 1. *The Commission does not have a scheduled meeting within the next [30] days following the meeting that is subject of the minutes;*
 2. *The Commission requests revisions be made to the minutes prior to approval;*
 3. *When sufficient members who attended the meeting are not present to approve the minutes; or*
 4. *There is a complex meeting requiring more time to prepare the written minutes.*

5.2 Location

All meetings of the Commission shall be held in the Midvale City Hall Council Chambers, located at 7505 South Holden Street, Midvale City, Utah or at such other place as the

Commission or Planning Staff may designate. A meeting having convened at the place designated, may be reconvened by the Commission to any other place within Midvale City for the sole purpose of investigating some particular matter of business which may be more conveniently investigated at such other place, or may be adjourned to any other room more convenient for conducting the business of the Commission, so long as proper notice of meeting location is posted for the general public.

5.3 Types of Meetings

A. Regular Meetings. *A regular meeting is a meeting where business of the Commission is conducted. Regular meetings of the Commission shall be held on the second and fourth Wednesdays of each month at 7:00 p.m. with a workshop meeting beginning no earlier than 6:00 p.m., unless otherwise noticed. A regular meeting is open to the public; proceedings shall be recorded and minutes shall be taken.*

B. Workshop Meetings. *A workshop meeting is a meeting where the Commission can discuss issues. This is a work meeting only and no decisions shall be made regarding any item or issue. The workshop meeting is open to the public; however, no public comments will be taken. Proceedings of this meeting shall be recorded and minutes shall be taken.*

C. Special Meetings. *A special meeting is a meeting where business of the Commission can be conducted outside the regular meetings. The secretary shall give notice of the time and purpose of the meeting of the Commission at least 24 hours prior to such meeting. Such notice shall be delivered to each member of the Commission personally, electronically, or by telephone. Special meetings are open to the public; proceedings shall be recorded and minutes shall be taken.*

D. Closed Meetings. *Closed meetings of the Commission may be held as part of a regular meeting or as part of a special meeting to discuss matters of a confidential nature. The Commission must have a roll call vote to enter into and out of a closed meeting. The closed meeting is not open to the public. Proceedings of this meeting must be recorded. Closed meetings must strictly comply with Utah Code Title 52, Chapter 4, Sections 204-206.*

E. Field Trips. *On occasions when site inspections are deemed advisable, field trips shall be held prior to the Commission meetings; the time of the field trip shall be posted on the agenda. Only Commission Members and pertinent staff shall be allowed to attend the field trip in a City-owned vehicle. The public shall be allowed at the sites of the field trip but are encouraged to present their case at the Commission meeting, not during the field trip. Field trips shall be for the purpose of gathering information, not for discussing decisions.*

5.4 Notice Requirements

Staff shall cause notice for all public meetings and public hearings through meeting agendas, legal notices, property owner mailings, and property posting as required by Title 10 Chapter 9a Part 2 of the Utah Code and Chapter 17-3 of the Midvale Municipal Code.

5.5 Quorum and Voting Requirements

A. Quorum. *Three members of the Commission shall constitute a quorum. An Alternate Member may be counted as part of the membership for a quorum. A majority of the voting members present at a meeting at which a quorum is present shall be required for any action; however, no less than three yes votes are required for passage of any action. The Chair shall vote only to break a tie or to form a quorum.*

B. Quorum Required to Hold Meeting and Vote. *A quorum of the Commission is required to hold a Commission meeting and vote on individual items. Members participating in person or through appropriate electronic communication shall constitute a quorum. If a quorum is not present, the meeting or item shall be rescheduled as soon as possible, subject to a quorum of members' availability and compliance with notice requirements.*

5.6 Rules and Order of Business for Regular, Special and Workshop Meetings

A. Order of Business. *The order of business shall be as follows:*

1. *Workshop meeting.*
2. *Call meeting to order.*
3. *Pledge of Allegiance.*
4. *Roll call.*
5. *Discussion of meeting format.*
6. *Consideration of agenda items.*
7. *Approval of previous meeting minutes.*
8. *Other business as necessary*
9. *Adjourn.*

The Commission may amend the order of the agenda if deemed appropriate with the unanimous consent of the Commission. No new item will be heard after 10:30 p.m. without the consent of two-thirds of the entire Commission (Alternates included) present. Items not heard will be scheduled on the next agenda.

B. Agenda for Meetings. *Staff shall prepare a written agenda for each meeting at least five (5) days prior to the scheduled meeting and cause the delivery of said agenda and corresponding staff reports to each member of the Commission via hand delivery, mail, email or fax.*

C. Staff Reports. *All major issues presented to the Commission for its consideration shall be accompanied by a staff report detailing the overview, background, analysis and staff recommendation(s) which shall include findings of fact and conditions of approval. Staff reports shall address the portion of the Zoning Ordinance affected by the petitioner's request and how it fits within the guidelines of the ordinance and the applicable General Plan. Staff reports shall be as concise as possible while allowing for adequate coverage of*

the subject matter. Said reports shall be made available to anyone requesting a copy.

5.7 Order of Business for Individual Agenda Items

A. Public Hearing. *The order of business for public hearings shall be as follows:*

1. *Introduction of item by Chair.*
2. *Presentation by staff.*
3. *Presentation by the applicant.*
4. *Open public hearing by Commission motion.*
5. *Testimony by proponents and opponents of the request.*
6. *Concluding comments of the applicant.*
7. *Concluding comments of staff.*
8. *Close public hearing by Commission motion.*
9. *Commission discussion.*
10. *Chair asks for Commission action.*
11. *Motion for action made pursuant to Section 6 herein.*
12. *Vote taken pursuant to Section 7 herein.*
13. *Decision announced by Chair.*

B. Other Items. *The order of business for other items shall be as follows:*

1. *Introduction of item by Chair.*
2. *Presentation by staff.*
3. *Presentation by the applicant.*
4. *Commission discussion.*
5. *Chair asks for Commission action, if required.*
6. *Motion for action made pursuant to Section 6 herein, if required.*
7. *Vote taken pursuant to Section 7 herein, if required.*
8. *Decision announced by Chair, if required.*

SECTION 6. MOTIONS

6.1 Making Motions

A. Making Motions. *Any Member, but the Chair or an Alternate Member, except when the Alternate Member is filling in for an absent Member, may make or second a motion.*

B. Second Required. *Each motion of the Commission must be seconded with the exception of motions to amend a motion and motions to adjourn the Commission meeting.*

C. Motions. *Motions should state findings at the beginning of the motion followed by the recommendation to the appropriate body, if any, and should be concluded with the conditions of approval. The motion may refer to the staff report for the detail of the findings of fact and conditions for approval if the author of the motion finds them acceptable. The staff summary*

should be sufficient in detail to assist the Commission in stating findings.

D. Repeat of Motion. *Motions may be repeated for clarification following discussion and prior to the vote at the request of any Commissioner.*

E. Legal Advice. *Commissioners may request legal advice from the City Attorney in the preparation, discussion and deliberation of motions.*

F. Withdrawing a Motion. *After a motion is stated, the motion shall be in the possession of the Commission but may be withdrawn by the author of the motion prior to the vote. Withdrawal of a second is not necessary.*

G. Motion to Table or Continue. *A motion to table or continue an agenda item for further study should be accompanied by specific reasons for continuing the matter, and, whenever possible, a specific date to rehear the matter should be made known to those at the meeting.*

H. Amending Motions. *When a motion is pending before the Commission, any member may suggest an amendment without a second, at any time prior to the Chair putting the motion to a vote. The amendment must be accepted by the author and the second of the motion in order for it to amend the stated motion. The author and the second may choose not to accept the amendment.*

I. Amending Amendments to Motions. *An amendment to a motion may be amended, no second required, at any time prior to the Chair putting the motion to a vote. The amendment to the amendment must be accepted by the author and the second of the motion in order for it to amend the stated motion. The author and the second may choose not to accept the additional amendment.*

J. Substitute Motions. *A substitute motion, which shall replace the original motion, may be made prior to a vote on the original motion.*

K. To Reconsider a Motion. *To recall a previous motion for further evaluation and/or action, a motion for reconsideration may be made by a Commissioner who voted with the majority. The motion to reconsider must pass with a majority vote. If the former motion is to be amended or made void, the new motion shall be put to a formal vote of the Commission. Motions to reconsider a previous motion must take place during the same meeting the motion was made or when the minutes containing that particular item are approved.*

L. Motion to Open and Close Public Hearings. *A motion shall be made to open and close the public portion of each public hearing prior to Commission discussion and vote on the matter.*

M. Motion to Recess. *A motion shall be made to break for a specific purpose while also stipulating a specific time to reconvene the meeting. The time to reconvene must be during the same day as the meeting in which the motion to recess was made.*

N. Motion to Adjourn. A motion to adjourn the meeting shall be made at the end of each Commission meeting with a consensus of the Commission. No second is required to the motion to adjourn.

SECTION 7. VOTING

A. Roll Call Vote. A roll call vote shall be taken on all actions by the Commission, with the following exceptions:

1. *Opening and closing public hearings.*
2. *Recessing a meeting.*
3. *Approval of meeting minutes.*
4. *Adjourning meeting.*

B. Changing a Vote. No member shall be permitted to change their vote after the decision is announced by the Chair.

C. Abstention. Any member abstaining from a vote may remain seated and participate in the discussion. Reasons for abstention must be stated at the time of the abstention and such reason shall not be considered a conflict of interest.

SECTION 8. AMENDMENTS

A. Amending Bylaws. These Bylaws may be amended by a majority vote of the Commission except where such amendment would be contrary to the requirements or limitations set forth by State Law or City Ordinance. An amendment may be proposed at any regular meeting of the Commission. Members shall receive a copy of the proposed or amended Bylaws not less than five (5) days prior to the meeting at which said proposed changes shall be heard.

B. Annual Review. There shall be an annual review of these Bylaws, typically during January of each year.

Originally adopted July 11, 2001.

Amendments and Reviews:

Date	Action
July 11, 2007 Amendments adopted	
July 9, 2008 Amendments adopted	Addition of Pledge of Allegiance (Section 4.6); authorizing chair to sign subdivision plats after City Council approval (Section 3.2)
Nov 2011-Jan 2012 Review of Bylaws	Discussion – no changes
February 8, 2012 Amendments adopted	Updated code and ordinance references and language throughout; modification to order of business to reflect actual (Sections 5.6 and 5.7); language clarification throughout, including input from City Attorney.
Oct. 2013-Feb. 2014 Review of Bylaws	Discussion – no changes
June 25, 2014 Amendments adopted	Clarifying language in 2.1 (E), 5.4 (3), 6.1 (G); update name in 4.5; fix format errors
March 11, 2015	Discussion – no changes
April 8, 2015 Amendments adopted	Revised conflict of interest language, updated City Hall address; changed policy regarding items heard after 10 p.m. (Section 5.6 A)
October 12, 2016 Amendments adopted	Addition to Duties of Chair (Section 4.2 (8)); addition of timeframe to approve meeting minutes (Section 5.1); revised Section 5.4 to reference notice requirements in Municipal Code instead of providing details in Bylaws; clarifying language in Section 5.5 (B) regarding quorum and electronic communication