

**BYLAWS
OF
CITY OF ST. JOSEPH
PLANNING COMMISSION**

Adopted, effective immediately, on July 2, 2009

1. Name and Purpose.

- A. The name shall be the City of St. Joseph Planning Commission, hereafter known as the "Planning Commission".
- B. These Bylaws are adopted by the Planning Commission to facilitate the performance of its duties as outlined in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, (MCL 125.3801 *et seq.*), hereinafter "the Planning Act".
- C. These Bylaws are also adopted to facilitate the duties of the Planning Commission for administration of a zoning ordinance as outlined in P.A. 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (MCL 125.3101 *et seq.*), hereinafter "the Zoning Act".

2. Membership.

- A. **Members.** Members of the Planning Commission are appointed by the City Commission pursuant to the Ordinance of the City of St. Joseph, Ch. 22, Art. II, as amended. Each member shall represent and advocate what is best for the City of St. Joseph as a whole, putting aside personal or special interests.
- B. **Attendance.** If any member of the Planning Commission is absent from three (3) consecutive regularly scheduled meetings, that member shall be considered delinquent. Delinquency is grounds for the City Commission to remove a member from the Planning Commission for nonperformance of duty, or misconduct, after holding a public hearing on the matter. The Planning Commission secretary shall keep attendance records and shall notify the City Commission whenever any member of the Planning Commission is absent from three (3) consecutive regularly scheduled meetings so the City Commission can consider further action allowed under law or excuse the absences.
- C. **Voting.** All members of the Board present at a meeting shall vote on every matter unless a member of the Board has a conflict of interest as determined under these Bylaws.
- D. **Training.** Each member shall make a good faith effort to attend at least four hours per year of training in planning and zoning during the member's current term of office.

E. **Conflicts of interest.** Each member of the Planning Commission shall avoid conflicts of interest and the appearance of a conflict of interest or other impropriety.

1. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to: issuing, deliberating on, voting on, or reviewing an application or issue:
 - a. directly involving him or her;
 - b. concerning work on or the use of land owned by him or her or which is adjacent to land owned by him or her;
 - c. involving a corporation, company, partnership, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss;
 - d. which may result in a pecuniary benefit to him or her;
 - e. concerning his or her relatives of the third degree of consanguinity or affinity (including spouse, children, step-children, grandchildren, parents, brothers, sisters, grandparents, parents in-law, grandparents in-law, etc.), or members of his or her household;
 - f. concerning a person with whom he or she has such a close personal relationship that the member is unable to have a fair and impartial opinion; or
 - g. where his or her employee or employer is an applicant or agent for an applicant, or has a direct interest in the outcome.
2. When a member feels they may have a conflict of interest, the member shall immediately notify the Chair or the Zoning Administrator, who may consult with the City Attorney for further clarification. If a preliminary determination is made that a conflict exists, the member shall do all of the following:
 - a. declare a conflict exists and describe the nature of the conflict at the next meeting of the Planning Commission, before the proceeding related to the agenda item begins;
 - b. cease to participate in proceedings related to the agenda item or represent one's self before the Planning Commission, its staff, or others, for the item; and leave the room during the proceeding of the agenda item until that agenda item is concluded.

- c. If there remains a question of whether a conflict of interest exists, the question shall be put before the Planning Commission, which shall determine whether conflict of interest exists. A majority vote of the remaining members of the Planning Commission is required to find that no conflict exists. The remaining members of the Planning Commission may vote on this question and determine if a conflict exists even if the number of members eligible to vote on the question do not constitute a quorum; this is the only exception to Section 5.D.
- d. The burden of establishing the conflict rests on the party claiming it.

3. Duties of all Members.

A. ***Ex Parte* Contact.**

- 1. Whenever possible, members shall avoid *Ex Parte* contact with or about an applicant, application or issue when an administrative decision is before the Planning Commission.
- 2. If inadvertent *Ex Parte* contact occurs, the member should fully disclose what was said and the nature of the contact to the Planning Commission at the next public meeting or hearing, so that every member and other interested parties are made aware of what was said.

B. **Site Inspections.** Site inspections are encouraged. All site inspections must be compliant with the Michigan Open Meeting Act (MCL 153261 *et seq.*) when a quorum of the Planning Commission is present, or when otherwise required under the Michigan Open Meetings Act. Site inspections may be done by the zoning administrator or other staff.

C. **Not Voting on the Same Issue Twice.** Any member of the Planning Commission shall avoid situations where they are voting on the same issue twice by sitting in judgment and voting on a decision which they had a part in making including, but not limited to, when the appeal is of an administrative or other decision by Planning Commission and the member of the Planning Commission sits both on the Planning Commission and Zoning Board of Appeals.

D. **Accepting Gifts.**

- 1. Gifts shall not be accepted by a member of the Planning Commission or by those acting with or on behalf of a member of the Planning Commission † from anyone connected with an agenda tem before the Planning Commission.

2. As used here, gifts shall mean cash, any tangible item, or service, regardless of value; and food valued over \$25.00.
3. This section does not apply to the Planning Commission accepting gifts for the exercise of its functions pursuant to MCL 125.3823(3), §23(3) of the Planning Act.

E. Spokesperson.

1. Free and open debate should take place on issues before the Planning Commission. Such debate shall only occur at meetings of the Planning Commission.
2. Once a vote is taken and an issue is decided by vote, the duty of each member of the Planning Commission is to represent the position reflected by the outcome of the vote and a member shall not advocate a contrary position. Minority reports and requests for reconsideration may take place only at an open meeting of the Planning Commission.
3. From time-to-time, or on a specific issue, the Planning Commission may appoint a spokesperson for the Planning Commission for all matters which occur outside of the meetings of the Planning Commission.

F. Code of Conduct. Each member, upon appointment, shall sign a code of conduct.

4. Officers.

- A. **Selection.** At the first regular meeting in May of each year, the Planning Commission shall select from its membership a Chair, Vice-Chair, and Secretary. The office of Vice-Chair and Secretary may be combined. All officers are eligible for reelection. If the office of the Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the Planning Commission shall select from its membership a Vice-Chair for the unexpired term. If the office of the Secretary becomes vacant, the Commission shall select from its membership a Secretary to succeed to this office for the unexpired term. The Planning Commission may also designate another person who is not a member of the Planning Commission to be the Recording Secretary.
- B. **Tenure.** The Chair, Vice-Chair and Secretary shall take office the first regular meeting in May or the next regular meeting following their selection, and shall hold office for a term of one (1) year or until their successors are selected and assume office.

C. **Chair's Duties.** The Chair retains his or her ability to discuss, make motions and vote on issues before the Planning Commission. The Chair:

1. Shall preside at all meetings with all powers under parliamentary procedure;
2. May appoint committees and officers of committees or choose to let the committees select their own officers;
3. May call special meetings pursuant to these Bylaws;
4. May act as an Ex-Officio member of all committees of the Planning Commission;
5. Shall appoint an Acting-Secretary in the event the Secretary is absent from a Planning Commission meeting;
6. May review with the Secretary or staff, the items to be on the agenda, may periodically meeting with the Planning Director and/or other Planning Department staff to review Planning Department operation and procedures, and to monitor progress on various projects.
7. May act as the Planning Commission's chief spokesman and lobbyist to represent the Planning Commission at local, regional, and state government levels.
8. May represent the Planning Commission before the City Commission when warranted or requested; and
9. Shall perform such other duties as may be ordered by the Planning Commission.

D. **Vice-Chair's Duties.** The Vice-Chair shall:

1. Act in the capacity of Chair in the Chair's absence, with all the Chair's powers and duties;
2. Perform such other duties as may be ordered by the Planning Commission.

E. **Secretary's Duties.** The Secretary shall:

1. Execute documents in the name of the Planning Commission;
2. Review and edit meeting minutes prepared by the Recording Secretary.

3. Perform such other duties as may be ordered by the Planning Commission

F. **Recording Secretary's Duties.** The Recording Secretary may be a member of City staff, and shall not be a member of the Planning Commission or any of its committees. The Recording Secretary shall:

1. Work with City staff, Chair and Secretary to prepare an agenda for the Planning Commission meeting;
2. Take meeting minutes and prepare draft minutes for Planning Commission review and approval, and signature by the Secretary;
3. Take attendance;
4. Keep public records of Planning Commission attendance, resolutions, transactions, findings and determinations on behalf of the Secretary; and
5. Perform such other duties as may be ordered by the Planning Commission.

5. **Meetings.**

A. **Regular Meetings.** Meetings of the Planning Commission will be held the 1st Thursday of every month at 4:30 p.m. at City Hall, 700 Broad Street, St. Joseph, Michigan 49085. When the regular meeting day falls on a legal holiday or as otherwise appropriate, the Planning Commission shall select a suitable alternate day in the same month. An annual notice or regularly scheduled Planning Commission meetings shall comply with P.A. 267 of 1976, as amended (being the Michigan Open Meeting Act MCL 15.261 *et seq.*).

B. **Special Meetings.** Special meetings may be called in the following manner:

1. By the Chair.
2. By any two members of the Planning Commission.
3. Notice of special meetings shall be given by the Secretary to members of the Planning Commission at least forty eight (48) hours prior to such meeting and shall state the purpose, time, day, month, date, year and location of the meeting (the Secretary may delegate this function to City staff). In addition notices shall comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meetings Act MCL 15.261 *et seq.*)

4. Special meetings may be called only in the event of extraordinary circumstances, for example, a lack of quorum at a regularly scheduled meeting; for a joint meeting with another Board; or if irreparable harm would result if a special meeting was not called.
- C. **Recess.** The Chair, or the Planning Commission, after the meeting has been in session for two hours (not including site inspections), may recess to evaluate the remaining items on its agenda. The Planning Commission shall then decide to finish that meetings agenda, may act to continue the meeting on another day (fix the time at which to adjourn), or complete some agenda items and continue the meeting on another day to complete other agenda items or postpone certain agenda items to the next meeting. If applicable, such action shall include the time, day, month, year, and location the Planning Commission will reconvene. If more than eighteen (18) hours will pass before the reconvened Planning Commission, public notice shall be given to comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meeting Act MCL 15.261 *et seq.*). Upon reconvening, a roll call of attendance shall be the first item of business before proceeding with the same agenda. The Planning Commission shall resume with the same meeting agenda, proceeding at the same point where they left off, without additional business.
 - D. **Quorum.** A majority of the Planning Commission membership shall constitute a quorum. A quorum is necessary for transaction of business. Whenever a quorum is not present at a regular or special meeting, those present shall adjourn the meeting to another day. Whenever a quorum is not present to vote on a particular agenda item, those present and qualified to vote shall move the particular agenda item to another meeting date. However, if a question of conflict exists, a vote may be taken by less than a quorum as described in sections 2.E.2.c and 5.F.
 - E. **Finding of Fact.** All actions taken in an administrative capacity (including but not limited to special use permits, subdivisions, zoning, site plan review, planned unit developments, review and submission on another municipality's proposed plan, review and submission on a capital improvement, review of township zoning) shall include the Planning Commission's evaluation of the relevant applicable factors required by the Zoning Ordinance, and shall report in full its finding and recommendations for action on the proposal to the City Commission.
 - F. **Voting.** Other than approval of minutes, voting shall be by roll call vote and shall be recorded by "yes" or "no". Members must be present to cast a vote. Voting by proxy shall not occur. The affirmative vote of a majority of those present or a majority of a quorum, whichever is greater, shall be necessary for the adoption of motions, unless voting on the question of a conflict, in which case a vote of a majority of those present and eligible to vote, even if not a quorum, is necessary to determine that no conflict exists (see Section 2.E.2.c). The affirmative vote of a majority of the total

number of seats for members of the Planning Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan.

- G. **Planning Commission Action.** Action by the Planning Commission on any matter on which a hearing is held shall not be taken until the hearing has been concluded.
- H. **Parliamentary Procedure.** Parliamentary procedure in Planning Commission meetings shall be informal. However, if required to keep order, Planning Commission meetings shall then be governed by *Roberts Rules of Order Newly Revised*, (10th Edition, Perseus Publishing, New York, 2000 (ISBN 0-7382-037-6)) for issues not specifically covered by these Bylaws. Where these Bylaws conflict, or are different than *Robert's Rules of Order*, then these Bylaws control.
- I. **Public Participation.** All regular and special meetings, hearings, records, and accounts shall be open to the public.
 - 1. All public comment on all agenda items shall be presented only during the portion of the meeting where provided in the printed agenda, which shall be prior to the Planning Commission acting on that item.
 - 2. The Chair may limit the amount of time allowed for each person wishing to make public comment at a Planning Commission meeting. The Chair may ask members of the audience to caucus with others sharing similar positions so they may select a single spokesperson. If a single spokesperson is selected, that individual shall be able to make public comment at the Planning Commission meeting with an extended time limit.
- J. **Order of Business.**
 - 1. **Agenda.** City staff shall prepare an Agenda for each meeting and the order of business shall be as follows unless otherwise appropriate to modify:
 - (A) *Call to order and roll call.*
 - (B) *Approval of Minutes.*
 - (C) *Matters pertaining to citizens present at the meeting, in the following order:*
 - i. *Advertised Continuation of Public Hearings. The chair will declare such a public hearing open and*

state its purpose. The petitioner, or proponent of the action advertised will be heard first.

ii. Advertised Initial Public Hearings. The Chair will declare such a public hearing open and state its purpose. The petitioner, or proponent of the action advertised will be heard first.

iii. Persons requested by the Planning Commission to attend the meeting.

iv. Other public participation for items on this agenda.

(D) *Other business.*

(E) *Comments.*

(F) *Adjournment.*

2. **Order.** The order of the agenda may be changed at the Chair's discretion. All agenda changes shall be announced at the beginning of the meeting or prior to proceedings on that item.

3. **Delivery of Agenda.** The agenda and available accompanying materials received, reviewed, and accepted as complete shall be mailed, electronically mailed, or delivered to Planning Commission members so it may be received reasonably in advance of the regular meeting date. Materials received after delivery and prior to the meeting date shall be provided immediately prior to the meeting.

4. **Placement of Items on the Agenda.**

(A) The St. Joseph City office of the Zoning Administrator shall be the office of record for the Planning Commission.

(B) The Zoning Administrator shall receive and, within a reasonable time, review for completeness applications submitted to the Planning Commission as provided in the Zoning Ordinance. If incomplete, the application shall be returned to the applicant, along with an explanation of the deficiencies. If complete, the application shall be scheduled for consideration at a Planning Commission meeting which occurs no less than twenty-four (24) days after the date of that determination.

6. **Record.**

- A. **Minutes and Record.** The Zoning Administrator, Recording Secretary or other City staff, on behalf of the Planning Commission, shall keep, a record of Planning Commission meetings, which, shall at a minimum include an indication of the following:
 - 1. Copy of the meeting posting pursuant to P.A. 267 of 1976, as amended, (being the Michigan Open Meetings Act, MCL 15.261 *et seq.*);
 - 2. Copy of the minutes, and all its attachments which shall include a summary of the meeting;
 - 3. Records of any action, support documents, maps, site plans, photographs, correspondence received, attached as an appendix to the minutes; and
 - 4. Citizen comments.

- B. **Retention.** Planning Commission records shall be preserved and kept on file according to statutory requirements and City policy or procedures not in conflict therewith, including:
 - 1. Minutes, bonds, oaths of officials, zoning ordinances, master or comprehensive plans, other records of decisions, Planning Commission or department publications: Permanent.
 - 2. Correspondence: Permanent.

- 7. **Ad Hoc Committees.**
 - A. **Establishment.** The Planning Commission or Chair may establish and appoint ad hoc committees for special purposes or issues, as deemed necessary. Less than a quorum may serve on an ad hoc committee at any given time.
 - B. **Rules of Procedure for Ad Hoc Committees Subservient to the Planning Commission.** All committees are subservient to the Planning Commission and report their recommendations to the Planning Commission for review and action. The Planning Commission may overrule any action of any committee.
 - C. **Same Principles.** The same principles of these Bylaws for the Planning Commission also apply to all ad hoc committees, including but not limited to voting, attendance, record keeping and public meeting requirements.

- 8. **Mileage and Expenses.** Mileage and expenses shall be paid to members of the Planning Commission at rates and under policies established by the City Commission for attending Planning Commission meetings, ad hoc committee meetings, and other authorized meetings and trips to represent the City of St.

Joseph, if those Planning Commission members bill the City of St. Joseph for the same and it is an authorized and budgeted expense.

9. **Hearings.**

- A. **Plan Hearings.** Before the adoption of any part of a plan, as defined in the Planning Act, or any amendment to a plan, or recommending approval of an amendment to the City Commission, the Planning Commission shall hold a public hearing on the matter. Notice of the time and place of the hearing shall be given, not less than 15 days prior to such hearing, by at least one publication in a newspaper of general circulation within the City. Before addressing the Planning Commission, all individuals shall identify themselves by name and address.
- B. **Special Hearings.** Notice of special hearings for the purposes of presenting preliminary master plans, obtaining public opinion on a problem, or discussion of a particular problem with interested parties will be given in the most practical manner and to persons, or group representatives most interested, and as required by the Planning Act, Zoning Act, and relevant local zoning ordinance.
- C. **Notice of Decision.** A written notice containing the decision of the Planning Commission will be sent to petitioners and originators of a request for the Planning Commission to study a particular problem.

10. **Zoning Responsibilities.**

- A. **Zoning Adoption or Amendment** (including PUD zoning amendments). The Planning Commission shall review and act on all proposed zoning ordinances, or zoning amendments pursuant to the Zoning Act and the Zoning Ordinance. At least one hearing shall be held on each proposed Zoning Ordinance or amendment, with notices given as specified in the Zoning Ordinance and the Zoning Act. After the hearing, action shall be in the form of a recommendation to the legislative body as provided in the Zoning Ordinance.
- B. **Special Use Permit** (including PUDs). The Planning Commission shall review and act on all special use permits pursuant to the Zoning Act and Zoning Ordinance. At least one hearing shall be held on each proposed zoning ordinance or amendment, with notices given as specified in the Zoning Ordinance and the Zoning Act. After the hearing, action shall be in the form of a motion which contains (or is included in the minutes) findings, conclusions, and the Planning Commission's action as provided in the Zoning Ordinance.
- C. **Site Plan Review.** The Planning Commission shall review and act on all site plans for which the Zoning Ordinance requires Planning Commission action. Action shall be in the form of a motion which contains (or is

included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Planning Commission's action.

11. Plan Reviews.

- A. The Planning Commission shall review all adjacent, or contiguous, local government plans (township, village, and city) within the boundaries serviced by the Planning Commission, and all Berrien County plans.
- B. Action shall be in the form of a motion which contains (or is included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Planning Commission's advisory action.
- C. The review should focus on:
 - 1. First and foremost, the process is intended to increase coordination of planning between governments.
 - 2. Consistencies or inconsistencies with the City government's plan(s) for matters such as:
 - a. Border issues;
 - b. Issues of greater than local concern;
 - c. Comparison with local plan contents;
 - d. Comparison with county/regional plan contents;
 - e. Comparison to other relevant adopted plans (such as an historic preservation plan, local wetland protection plan, TIF or Brownfield redevelopment plan, etc.);
 - f. Comparison to various implementation strategies.
 - 3. If the County Planning Commission considered the proposed plan inconsistent with the plan of any city, village, township, or region that received a copy of the draft plan (or amendment).
 - 4. If the County Planning Commission considers the draft plan (or amendment) to be inconsistent with a county plan(s), if any.

Action by the Planning Commission shall be based on, in part, a review of possible boundary conflicts in use or zoning, between the plans of two municipalities.
- D. The review shall be in the form of a letter and shall take into account:

1. Respect for the idea that the submission and review stages are near the end of a plan adoption process. A community may be ready to adopt and others may be waiting for the task to be done. Do not extend the adoption more than necessary.
 2. Focus only on significant issues, in a clear and well documented way. Suggest solutions rather than only pointing out what is wrong.
 3. Be clear and document statements to improve the quality of planning for the entire area. This process is to improve coordinated planning, not to undermine relationships or exacerbate tensions between governments.
 4. Include mutual respect of others, so the comments are factual, objective, and based on sound planning principles.
12. **Capital Improvements Review.** Capital Improvements (the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any public way, grounds, agricultural land, open spaces, buildings, or properties before work is started and after municipal capital improvement planning approval is obtained) are exempted from the Planning Commissions duties by the City Commission, and is a responsibility undertaken by the City Commission.
13. **Subdivision Review.**
- A. Prepare a Subdivision Ordinance (and/or Subdivision, Land Division, Site-Condominium Ordinance), or amendments to the same, to submit to the City Commission.
 - B. Proposed Subdivisions.
 1. Staff for the Planning Commission is to receive a plat and determine that the submission is complete. If incomplete, the plat shall be returned to the applicant with a list of deficiencies. If complete, the plat shall be received on behalf of the Planning Commission.
 2. Conduct a review of plats of proposed subdivision (and/or site condominium).
 3. Hold a hearing on a proposed subdivision (and/or site condominium) with notice of the hearing sent not less than 15 days before the date of the hearing.
 - a. The notice shall contain an explanation of what the hearing is for, the location and nature of the proposed development, the date, time and place of the hearing, where written

comments may be submitted, and the deadline for those written comments.

- b. The notice shall be sent to the person indicated on the plat (and/or draft site condominium master deed) as the proprietor or other person(s) to whom notice of the hearing shall be sent, the property owner, and adjacent property owners.
- c. The notice shall be published in a newspaper of general circulation in the City of St. Joseph.
- d. Any others as required by the Subdivision Ordinance (and/or Subdivision, Land Division, Site Condominium Ordinance).

4. Within 63 days of a complete plat (and/or draft site condominium master deed) being submitted, act on the proposed subdivision (and/or site condominium) in the form of a recommendation to the City Commission.

- a. If applicable standards under the Land Division Act (MCL 560.101 *et seq.*), Condominium Act (MCL 559.101 *et seq.*) if applicable, and Subdivision Ordinance (and/or Subdivision, Land Division, Site Condominium Ordinance), the Planning Commission shall recommend approval.
- b. Grounds for any recommendation of disapproval of a plat (and/or site condominiums) shall be stated upon the record of the Planning Commission.
- c. If the Planning Commission does not act within the 63-day period, the plat (and/or site condominium) shall be considered to have been recommended for approval, and a certificate to that effect shall be issued by the Planning Commission upon request of the applicant. The applicant may waive the 63-day period and grant an extension.

C. Master Plan Amendment. Planning Commission approval of a subdivision shall be considered to be an amendment to the master plan and a part thereof. The Planning Commission shall cause the official copies of the master plan to be modified to reflect the amendment to the master plan within 30 days of the subdivision approval.

14. **Other Matters to be Considered by the Planning Commission/Planning Commission Action.** The following matters shall be presented for consideration at a meeting by the City Commission:

- A. At least annually, the adoption of priorities for the Planning Commission's plan of work.
- B. Annually, preparation of an annual written report of the Planning Commission concerning the Planning Commission's operations, status of planning activities, recommendations regarding actions by the City Commission related to planning and development.
- C. The general character, extent and layout of the replanning and redevelopment with the City, including City owned properties.
- D. Land subdivision plats.
- E. All Planning reports and plans before publication.
- F. Such other matters as the Zoning Administrator, City Attorney or Commission member finds appropriate or advisable.

15. **Adoption, Repeal, Amendments.**

- A. Upon adoption, these Bylaws shall become effective.
- B. The Planning Commission may suspend any one of these Bylaws for a duration of not more than one agenda item or meeting by a two-thirds (2/3) vote of the total membership.
- C. These Bylaws may be amended at any regular or special meeting by a two-thirds (2/3) vote of the total membership.