



# Memorandum

To: Members of the Land Use Commission

From: Katie Ashbaugh, AICP, Planner

CC: Sarah Flax, Director of Community Development  
Liz Williams, Planning Manager  
Melissa Klotz, Zoning Administrator  
Meagan Jones, Neighborhood and Land Use Planner

Subject: Land Use Commission Rules & Procedures - Update

Date: April 21, 2023

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## Background:

On January 12, 2022, the Land Use Commission (“LUC”) conducted its inaugural meeting and adopted Rules & Procedures (“Rules”).

On March 30, 2022, the LUC adopted changes to Section 2 of Article IX of the Rules to clarify the number of votes required for forms of zoning relief of which the LUC is the determining body. This was done at the time given that the number of members was 10 during the transitional period following the merging of the Zoning Board of Appeals and the Plan Commission.

As the Land Use Commission is nearing 18 months as an active body established in the City Code, the Chair, some Commissioners, and Planning & Zoning and Law staff have found that certain clarifications and amendments are appropriate. The changes generally include but are not limited to the following:

- Elimination of wording referencing the transitional membership period
- Elimination of vote requirement to continue a meeting past 11:00 p.m.
- Establish cut off time for acceptance of written comments for distribution to LUC
- Establish requirement for speakers on behalf of a group
- Establish time limits for speakers providing testimony or public comment on behalf of a group
- Clarify requirements and process for continuance requests
- Clarify difference between public testimony and public comment
- Clearly define beginning and end of public hearing and different components of a public hearing
- Confirm consistency with applicable state law and City Code

Land Use Commission Action

The Land Use Commission should vote to adopt the Rules & Procedures either as written or make specific changes and then vote to adopt.

Attachments:

1. [Land Use Commission Rules & Procedures - as amended 3/30/2023](#)
2. Land Use Commission Rules & Procedures - Final Draft (prepared 4/21/2023, dated presuming adoption 4/26/2023)
3. Land Use Commission Rules & Procedures - Track changed version

# LAND USE COMMISSION



City of  
**Evanston™**

## **Rules & Procedures**

Adopted January 12, 2022  
As Amended April 26, 2023

# EVANSTON LAND USE COMMISSION RULES & PROCEDURES

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## **ARTICLE I – GENERAL PROVISIONS**

### **SECTION 1 – PURPOSE**

The City Council establishes a Land Use Commission to provide for planning the future development and redevelopment of the Municipality as authorized by Division 12 of the Illinois Municipal Code, 65 ILCS 5/11-12-4 et seq, hear and decide major variations from provisions of the Zoning Ordinance, hear and decide appeals of the Zoning Administrator, hear and make recommendations to the Planning and Development Committee and City Council on applications for certain major variations, all special use permits including planned developments, and applications for map amendments and text amendments to the Zoning Ordinance.

Planning by the Land Use Commission may be directed toward the following ends:

- A. Adoption by the City Council of an Official Comprehensive General Plan or geographic or functional parts thereof, showing the present and future use and development or redevelopment of land in the City, including general statements of policy and objectives. Such Plan in itself shall not be regulatory but shall be for the general guidance of local governments and others.
- B. Adoption by the City Council of new or amended zoning, building construction, and other regulations or ordinances, all designed to bring about the desired use and development or redevelopment of land as indicated in specific or general terms by the Official Comprehensive General Plan.
- C. Adoption from time to time by the City Council, when changed conditions warrant or it is otherwise desired, changes or amendments in the previously adopted Official Comprehensive General Plan, regulations, ordinances, and programs.
- D. Providing for the review of and preparation of reports, recommendations, or actions on matters relating to plans for development or redevelopment of the City, public improvements, and any matters relating to the implementation of the Comprehensive General Plan.

### **SECTION 2 – AUTHORIZATION**

The establishment of this Commission is provided for in Title 2, Chapter 19 of the City Code by Ordinance 92-O-21.

These rules are supplementary to the City of Evanston Code of Ethics, Title 1, Chapter 10 of the Evanston City Code, 2012, as amended, and the City of Evanston's home rule Zoning Ordinance, Title 6 of the Evanston City Code, 1993, as amended, and are adopted pursuant to the authority contained therein.

These rules are to be read in conjunction with 65 ILCS, 5/11-13-1, *et seq.* "Zoning" and 5 ILCS, 120/1, *et seq.* "Open Meetings" and Ordinance 15-0-78, "Requiring Disclosure of Ownership Interests of Entities Seeking City Council Approval on Real Estate Matters".

These rules shall be followed in conjunction with and compliance with the current edition of Robert's Rules of Order, which shall be used in any instance in which the Land Use Commission Rules are otherwise silent.

Nothing contained herein shall be construed to give or grant the Commission the power or authority to amend or change the Zoning Ordinance, which authority is reserved to the City Council.

### SECTION 3 – OPEN MEETINGS ACT (“OMA”)

All meetings and public hearings of the Commission, as defined in the Illinois Open Meetings Act, 5 ILCS 120/1 *et seq.*, as amended, shall be open to the public and subject to public notice requirements.

Information concerning any pending case shall be obtained only from the Secretary of the Commission and shall be posted on the City website and available to the public before the meeting. Discussion of the merits of any pending case by the public with any Commissioner, except by sworn testimony at a public hearing, is improper and may be considered prejudicial.

All meetings and hearings shall follow up with audio-visual recordings, meeting actions, and/or meeting minutes that are available to the public.

## **ARTICLE II – COMMISSION POWERS & DUTIES**

This Article may require updating as the Zoning Ordinance or Land Use Commission establishing Ord. 92-O-21 are amended from time to time. In the case of conflict, the Evanston Municipal Code shall prevail over these rules.

### SECTION 1 – DUTIES AS THE DETERMINING BODY

**Major Variations:** The Commission shall formulate final determinations for any application for Major Variations (notwithstanding Certain Major Variations as described in Section 2 of this Article), and any combined application for Major and Minor Variations pursuant to Section 6-3-8 of the Zoning Ordinance.

**Appeal of Minor & Fence Variations:** The Commission shall formulate final determinations for any Appeal of a decision to a Minor and/or Fence Variation made by the Zoning Administrator.

*Appeal of Decisions made by the Zoning Administrator including Time Extensions:* The Commission shall formulate final determinations for any Appeal of a decision made by the Zoning Administrator in the administration or enforcement of the Zoning Ordinance.

## SECTION 2 – DUTIES AS THE RECOMMENDING BODY

*Comprehensive General Plan:* The Commission shall formulate recommended policy to the City Council for a Comprehensive General Plan, geographic or functional parts thereof, showing the present and future use and development or redevelopment of land in the City, including general statements of policy and objectives. Such Plan in itself shall not be regulatory but shall be for the general guidance of local governments and others. The Commission shall formulate recommended changes or amendments to the Plan, geographic or functional parts thereof when changed conditions warrant or it is otherwise desired.

*Text & Map Amendments:* The Commission shall formulate recommended policy to the City Council for Text & Map Amendments to Zoning Ordinance, Title 6 of the Evanston City Code, 1993, as amended, when changed conditions warrant or it is otherwise desired.

*Special Uses including Planned Developments, & Unique Uses:* The Commission shall study site-specific requests and make recommendations with conditions to the City Council for Special Uses including Planned Developments, and Unique Uses.

*Certain Major Variations:* The Commission shall study site-specific requests and make recommendations with conditions to the City Council for certain Major Variations pursuant to Section 6-3-8 of the Zoning Ordinance including but not limited to off-street parking and loading for all uses other than single-family and two-family residential, and height beyond fifty (50) feet.

## SECTION 3 - ADDITIONAL DUTIES

*Studies & Reports:* The Commission shall initiate studies, reports, and recommendations to the City Council on matters concerning the present or future development or redevelopment of the City.

*Governmental Proposals:* The Commission shall study, review, and prepare recommendations on plans and proposals of other departments of the City government which relate to the implementation of the Comprehensive General Plan.

*Other Matters:* The Commission shall hear and decide or make recommendations on any other matters referred by the City Council.

## SECTION 4 – POWERS TO CARRY OUT DUTIES

To carry out the above duties, the Land Use Commission shall have the following powers:

1. To invite the advice and assistance of persons having special knowledge, experience, or interest in the needs or problems which are receiving consideration by the Land Use Commission. Such advisors may include, among others, officials of an adjoining municipality or of other local governments or other persons not living in the City.
2. To conduct such public hearings as required and as it deems necessary to gather information and ideas needed for a thorough review of the Comprehensive General Plan.
3. To promote the realization of the Comprehensive General Plan and the community objectives it incorporates through public education and other means.
4. To request from the Community Development Department such staff time as may be required to assist the Land Use Commission in carrying out its duties.
5. To establish subcommittees of the Land Use Commission as necessary.
6. To designate a spokesperson or representative to speak on behalf of the Commission before the City Council, City Council committees, and other public meetings as necessary.
7. To adopt additional Rules & Procedures deemed necessary to conduct meetings and public hearings and to carry out the duties of the Commission, in conjunction with and compliance with Roberts' Rules of Order and the OMA.

None of the above, without prior approval by the City Council, shall include the power to obligate the City for compensation to any person or organization.

## **ARTICLE III – MEMBERSHIP**

### **SECTION 1 – MEMBERSHIP**

Appointments of members shall be for four (4) years and shall consist of no more than two terms. Membership shall be appointed by the Mayor, subject to confirmation by the City Council. Membership shall consist of nine (9) members. A quorum shall consist of the majority of the appointed members of the Land Use Commission at any given time.

All appointed members of the Land Use Commission shall serve as such without compensation and shall abide by the City's Code of Ethics set forth in Section 1-10-4 of the Municipal Code, as amended.

In the event the Chair determines a member's attendance is hindering the ability of the Commission to perform its duties, the Chair may request the Mayor speak to and possibly remove said member. If a member has been unable to attend all meetings during a consecutive period of four (4) months, such absence may be construed, after notice to the member thereof, as a resignation from the Commission.

### **SECTION 2 – OFFICERS**

Commission membership shall include the following officer positions:



*Chair:* At the end of each year, the Commission shall elect a Chair to serve for the following year, with eligibility for re-election. The Chair shall supervise the affairs of the Commission and preside over all meetings.

*Vice-Chair:* At the end of each year, the Commission shall elect a Vice-Chair to serve for the following year, with eligibility for re-election, whenever the Chair is absent or is unable to serve.

*Commission Liaisons:* At the end of each year, the Commission shall elect Commission Liaisons for pertinent standing committees in the City that are related to the cases and duties of the Land Use Commission. Liaisons shall attend committee meetings and provide input as it relates to the Land Use Commission. Standing committees that may, but not shall, have Land Use Commission liaisons include the Inclusionary Housing Ordinance Subcommittee and other committees as appropriate.

*Subcommittee Officers:* At the first meeting of any subcommittee meeting, the Subcommittee shall elect pertinent officers including, but not limited to, a Subcommittee Chair and Vice-Chair.

### SECTION 3 – STAFF SUPPORT

Staff support shall include the following position:

*Secretary:* The Planning & Zoning Manager, or his/her/their designee, shall serve as Secretary of the Commission and is responsible for the following duties:

1. Be custodian of the active cases of the Commission and keep all records;
2. Ensure the preservation of all files on which Commission action has been completed;
3. Conduct the correspondence of the Commission;
4. Schedule cases and inform applicants of timeframes, deadlines, and expectations for hearings;
5. Publish qualifying cases for public hearings in a local newspaper as required by law, provide mailed notice of qualifying cases as required by the Zoning Ordinance, and post public hearing signs on qualifying properties as required by the Zoning Ordinance;
6. Prepare a written memorandum for each agenda item that describes the request, background information, impacts, ramifications, alternatives, and a staff recommendation;
7. Ensure audio-visual recordings, meeting actions, and/or meeting minutes of all Commission meetings are available to the public;
8. To prepare in cooperation with the Land Use Commission and within the policy framework established by the Land Use Commission, a Comprehensive General Plan

or amendments to an existing Plan, for the present and future development or redevelopment of the City;

9. To serve as the liaison between the City administration and the Land Use Commission, and professional consultants retained by the City to undertake general or specific studies related to the preparation, modification, or implementation of the Comprehensive General Plan;
10. Provide interpretation of the City Code as it relates to matters heard by the Commission;
11. Perform other additional duties as may be requested by the Commission and determined to be appropriate duties to engage in.

## **ARTICLE IV – GENERAL APPLICATION REQUIREMENTS**

### **SECTION 1 – APPLICANTS**

Any case heard by the Commission shall have an official applicant listed on the application submission and shall be a property owner, authorized representative, contract purchaser, 99-year lessee, City staff initiated, City Council referral, or other governmental agency. In the case of an Appeal, the Appellant shall be an aggrieved party.

A certificate of disclosure of ownership interests of entities seeking recommendation or approval on real estate matters shall be filed with any application on property not held in sole ownership by the applicant.

### **SECTION 2 – COMPLETE SUBMISSION**

Any case heard by the Commission shall feature a complete application with all necessary supporting documents and shall include requests for all zoning relief needed to allow the proposal so that the case may be heard as a whole and in its entirety. In any case, where physical improvements are contemplated, or deemed necessary, plans which are sufficient in detail for a Zoning Analysis shall first be submitted to the Community Development Department for review by City staff.

### **SECTION 3 – ALTERNATIVE PROPOSALS**

Any application may propose alternative forms of relief for the same proposal, providing a separate filing fee, if applicable, is paid for each alternative request so filed and each case is properly noticed in the newspaper and to neighboring properties.

### **SECTION 4 – PROSPECTIVE PROPOSALS**

Applications may not be filed which are prospective concerning a proposed change to the Zoning Ordinance. However, if a petition or reference has been made and publicly noticed in the newspaper for the Land Use Commission or a subcommittee thereof, such case may proceed at the applicants' own risk. Such case shall not receive a final determination until and unless such original petition or reference is first determined by the authorized body.

## **ARTICLE V – FILING AND SCHEDULING PROCEDURES**

In addition to the general application requirements, the following specific requirements apply based on the type of relief requested:

### **SECTION 1 – COMPLETE APPLICATION**

The Secretary of the Commission shall determine application completeness and may request or insert additional documents or information as is necessary and pertinent to the case at hand.

### **SECTION 2 – SCHEDULING**

Once an application has been deemed complete by staff, such case shall be scheduled to a date(s) certain for pertinent committee meetings and recommending bodies as required by the City Code, including but not limited to, the Historic Preservation Commission, and then the Land Use Commission. Meeting dates shall be adjusted as necessary to accommodate continuances or cancelations at prior meetings. Applications shall be processed and scheduled for committee meetings and the Land Use Commission in a timely manner. Scheduling of cases is subject to Commission quorum and/or availability of agenda space. In the event of a backlog of cases to be heard by the Commission, cases will be scheduled for the next available regular or special meeting that has agenda space. In the event the applicant is not present at a meeting for which notice has been given (i.e. agenda, mailed notice, published newspaper, etc.), the matter may be continued to the next regularly scheduled meeting.

### **SECTION 3 – NOTICE REQUIREMENTS FOR PUBLIC HEARINGS**

The Secretary of the Commission shall give due notice of the time, place, and subject of every application to consider proposed map and text amendments, planned developments, unique uses, or changes to the Comprehensive General Plan, not more than thirty (30) days nor less than fifteen (15) days before the meeting by publishing a notice thereof at least once in one or more newspapers published in the City in compliance with the requirements of the Zoning Ordinance.

Mailed Notices shall be processed by the Secretary and may use a third party to fulfill the mailed notice requirements in compliance with the requirements of the Zoning Ordinance and as outlined in Article VI, Section 6 of these rules. Failure to deliver such notice, however, shall not invalidate a case or hearing. Subsequent notices are not required for continuances.

A sign (freestanding or window) shall be posted on the subject property by the Secretary a minimum of ten (10) days before the public hearing indicating the place, time, and date of the hearing, and how to obtain additional information regarding the case.

## **ARTICLE VI – MEETINGS & PUBLIC HEARINGS**

### **SECTION 1 – MEETING SCHEDULE**

Land Use Commission meetings shall be held twice monthly, typically on the second and fourth Wednesday of the month at 7:00 pm, in Council Chambers at the Civic Center. Meetings may be held virtually in addition to or in place of in-person meetings per OMA. Virtual participation by members of the public may be permitted in conjunction with in-person participation at the discretion of the Chair, provided virtual meeting information is published per OMA and notice requirements for public hearings. Meeting dates and times may vary depending on Commissioner availability, agenda management, holidays, and/or meeting room availability, and are subject to confirmation by the Commission Chair and proper public notice. A yearly meeting schedule shall be adopted by the Commission at the end of each calendar year that specifies all regular meeting dates for the upcoming year and published for public viewing per OMA.

### **SECTION 2 – ADDITIONAL OR RESCHEDULED MEETINGS**

Additional or rescheduled meetings of the Commission may be held as needed, provided public notice of said hearing is published as required.

### **SECTION – RECUSAL**

No member of the Commission who has a financial interest in the property or the affairs of a petitioner or affected owner, or who believes he/she/they have some other direct conflict of interest, shall participate in any discussion, questioning, or voting as a Commissioner in the matter involving such property or person. Recusal by any Commissioner shall be clearly stated before the start of said agenda item. Any Commissioner who has recused themselves from any agenda item shall leave the dais.

### **SECTION 4 – OATH & SWEARING IN**

For each individual case requiring a public hearing, an oath shall be administered to all persons intending to testify or who may be called to testify during the course of a public hearing. In the case of a hearing that was continued from a previous meeting, the Chair shall remind those who were previously sworn in that they remain under oath.

### **SECTION 5 – TESTIMONY & PRESENTATION OF EVIDENCE**

All meetings and hearings shall provide time for public testimony and public comment. To allow for all public testimony and public comment to be voiced in a timely manner, a time allotment per person may be established by the Chair. Any established time limit may be adjusted by the Chair to accommodate extraordinary circumstances. When allotting speaking time, the Chair may give additional speaking time to those who have a legal interest in real property within the specific mailed notification requirements listed below.

Planned Development, Unique Use	1,000-foot radius
Map Amendment, Special Use, Major Variation, Appeal of Decisions made by the Zoning Administrator including Time Extensions	500-foot radius
Appeal of Minor and Fence Variations	250-foot radius
Text Amendment, Comprehensive Plan, Other Plans	No mailed notice boundary/ Testimony from all residents accepted

Any person who resides outside of the applicable radius or boundary may give public comment. However, such public comment shall not be construed as testimony or presentation of evidence. Any person residing within the applicable radius may provide public testimony and presentation of evidence.

**SECTION 6 – CONTINUANCES**

Any person with a legal interest in real property within the notification boundary for a said case, as stated in Section 6 above, shall have the right to request a continuance of a case. Any request for continuance shall be made in writing and include the specific reason(s) the continuance is necessary. The continuance shall be read into the record and a motion to continue shall be called by any member of the Commission, seconded and a roll call vote shall be called. The continuance may be granted if the motion carries by a simple majority.

In the interest of time and receiving testimony from those who are already present at a meeting, the Chair may determine whether it is appropriate to allow testimony to proceed on a given case when a continuance has been requested. If the Chair so determines, the request for continuance shall be heard at the conclusion of public testimony and public comment. A continuance may be granted at the Commission's discretion upon showing the case is unable to proceed with testimony, evidence, or cross examination at the current meeting for good cause. Any Commissioner may move a continuance by stating the specific reason.

Should the request for a continuance of said case be granted, public announcement shall be made of the date certain upon the continuance being granted. Any continued case shall hear only new testimony and receive new evidence specific to the reason for the continuance.

Should the request for a continuance of said case be denied, the case shall continue.

## **ARTICLE VII – ORDER OF BUSINESS**

### **SECTION 1 – GENERAL ORDER OF BUSINESS**

Meetings of the Commission shall ordinarily proceed as follows, but may be adjusted by the Chair for good reason:

1. Introductory statements and declaration of quorum
2. Approval of past meeting minutes
3. Old business - hearing of testimony and/or deliberation on continued matters
4. New business - hearing of testimony and deliberation on new matters
5. Communications - upcoming agenda items, meeting dates, training, general housekeeping
6. Public comment regarding non-agenda items
7. Adjournment

Procedures for public hearings for Old and/or New business are detailed in Article VIII - Procedures for Hearing Cases.

### **SECTION 2 – MEETING TIME LIMITS**

No new case shall begin after 10:00 pm and Commission meetings shall end at 11:00 pm unless the Chair determines it is in the interest of the Commission and the public to proceed. Any matter on the agenda not completed at said meeting shall be rescheduled to the next regularly scheduled meeting or to a date certain.

## **ARTICLE VIII – PROCEDURES FOR HEARING CASES**

All cases requiring a public hearing shall be conducted in the order set forth below:

### **SECTION 1 – CASE INTRODUCTION**

Each case shall begin by introducing the matter and shall include the case number, address of the subject property or properties associated with the request and an explanation of the request or the relief sought. The Chair shall explain procedures for the conduct of the case, including but not limited to any time limits, rules governing public comment, that repetition should be avoided, and that all testimony must be relevant to the matter at hand.

If an applicant fails to appear, the Chair may entertain a motion to dismiss the matter or continue the matter to a date certain.

### **SECTION 2 – OPENING THE PUBLIC HEARING**

Immediately following the Case Introduction and before hearing any testimony or receiving any evidence from the applicant, staff, or interested members of the public, the Chair shall announce that the public hearing is now open.

### SECTION 3 – STAFF PRESENTATION

Staff may provide a brief presentation summarizing the staff report and/or pertinent information for the benefit of the Land Use Commission and the public.

### SECTION 4 – APPLICANT’S PRESENTATION

The applicant shall explain the proposal and may provide additional evidence and testimony. Materials submitted to the Commission before the hearing and available to the general public on the City website, including the staff report and recommendation, shall be part of the record. The applicant shall be limited to a presentation of no more than 20 minutes. A written request for additional time shall be submitted to the Secretary no later than 5 business days before the scheduled date at which the case is scheduled and may be approved by the Chair or the Secretary.

### SECTION 5 – PUBLIC COMMENT, TESTIMONY, & CROSS-EXAMINATION

Following the applicant’s presentation, Commissioners may ask questions about the proposal and Standards for Approval. The applicant shall then be given the opportunity to respond.

Once all Commissioners’ questions are addressed, persons with a legal interest in real property within the notification boundary for a case as stated in Article VI, Section 5, may ask questions about the proposal and Standards for Approval, provide testimony, and present evidence. The applicant shall then be given the opportunity to respond.

Before the start of public comment and public testimony, the Chair shall remind the public of the general rules regarding time limits and rules governing public comment, testimony, and cross examination. The Chair may exclude any question or cross examination which is argumentative or irrelevant.

At the Chair’s discretion, time not to exceed 10 minutes may be granted to designated speakers of community groups to provide public testimony or public comment on behalf of the group. A written request for time shall be submitted to the Secretary no later than 5 business days before the scheduled date at which the case is scheduled and may be approved by the Chair or the Secretary. The request for time shall include documentation that states the following:

- The name of the community group, including any legal recognition;
- A list of individuals or institutions being represented.

Examples of group names may include geographical area, institution, or interest. This documentation shall not be considered a petition as otherwise described herein.

The Commission reserves the right to seek clarification of any public comment or testimony and cross-examine any member of the public that speaks in a hearing.

#### SECTION 6 – SUBMITTAL OF EVIDENCE & PETITIONS

Any materials to be presented in the Commission’s packet that posts on the City website shall be transmitted digitally to the Secretary no less than 5 business days before the Land Use Commission meeting where such material is discussed or considered. Such materials will be included in the information packet for the Commission and posted to the City website for public view. Materials transmitted less than 5 business days before the Land Use Commission meeting where such material is discussed or considered shall be accepted but may not be posted to the City website in advance of the meeting start time.

A petition favoring or opposing a proposal may be submitted. Such a petition shall contain a brief statement of the position of the signatories, their printed names, addresses, signatures, and whether each name listed holds a legal interest within the notice boundary area (when applicable). No petition will be admitted into evidence unless the submitter certifies that he/she/they collected all signatures on the petition and that each person signing the petition did so in the presence of the person submitting the petition. A petition provided to the Commission only has a legal effect for Map Amendments and Unique Uses. Any petition received in conformity with this section, for other matters before the Commission, will be included as public testimony or public comment.

Written public testimony or public comment favoring or opposing a proposal may be submitted. Written public testimony or public comment received in a digital format (via public comment form, email, or other written digital mechanism) received no later than 5:00 pm the Thursday before the duly noticed meeting date will be included in the initial meeting agenda and packet posting and distribution. Written public testimony or public comment received in a digital format (via public comment form, email, or other written digital mechanism) received no later than 3:00 pm the day before the meeting will be distributed to the Land Use Commission directly via email for their review. Any comments received after 3:00 pm the day before the meeting may be distributed to the Commission at the meeting.

Those seeking to provide public testimony or public comment shall provide their first and last name and may provide their address.

#### SECTION 7 – REQUESTS FOR CONTINUANCE

Any request for continuance shall include the specific reason(s) the continuance is necessary.

Any member of the public who comments or testifies during the initial public hearing shall not be permitted to re-state the same comments or testimony at the continued hearing. Any



case begun at a previous hearing shall only hear new testimony and receive new evidence if testimony remained open at the hearing the continuance was granted.

Any case for which a continuance is granted by the Commission shall be continued by public announcement to a date certain. Whenever a case is continued to a date certain, no additional notice or publication of notice shall be required providing the notice of the initial hearing met all legal requirements.

Any Commissioner absent from all or a part of a previous public hearing that was continued, who certifies that he/she/they have read the minutes and/or watched the audio-visual recording(s) of the hearing for any given matter, may then vote upon any motion before the Commission concerning such matter.

#### SECTION 8 – CLOSING STATEMENTS & REBUTTAL

The applicant and/or staff may offer additional statements that generate further testimony and discussion and may suggest potential modifications to the original request based on the testimony and evidence presented.

Following additional and closing statements, the record shall be closed for public testimony and public comment

#### SECTION 9 – DELIBERATION

Within the public hearing, the Commission shall discuss the testimony and evidence presented before them. During deliberation, the Chair may, at the request of any Commissioner, direct clarifying questions to the applicant or any member of the public who testified or provided comment. No further evidence, testimony, or public comment shall be made by the applicant or the public unless the Commission votes to reopen public testimony and public comment. During deliberation, the Chair may, at the request of any Commissioner, direct clarifying questions to the applicant, staff, or any member of the public who testified or provided public comment.

#### SECTION 10 – STANDARDS FOR APPROVAL

The end of Deliberation shall include a review of the Standards by the Commission. Any Commissioner who believes any individual Standard is not met shall describe in detail why that Standard is not met, and shall not vote in favor of the proposal. If a Commissioner believes an unmet Standard can be met by adding a specific condition, the Commissioner may request such a condition be placed on the proposal and may then vote affirmatively.

#### SECTION 11 – CLOSING THE PUBLIC HEARING

Immediately following the Deliberation, the Chair shall close the public hearing.

## SECTION 12 – COMMISSION ACTION

Based on discussion, the Commission shall either a) require the applicant, staff, the public, and/or the City Attorney to provide new or additional information and continue the hearing to a date certain; or b) take action on the matter and make a recommendation or final determination, depending on the case type, based on Standards and findings of facts. Any determination or recommendation may include conditions that keep with the intent of the relevant Standards for Approval.

## **ARTICLE IX – RECOMMENDATIONS & FINAL DETERMINATIONS**

### SECTION 1 – MOTIONS

All motions, votes, actions, decisions, and recommendations shall include any necessary conditions for approval and shall be made at a meeting open to the public. Any decision or recommendation on a case shall be made at the meeting at which testimony is concluded unless the case is continued to a date certain. No additional testimony or evidence shall be given.

### SECTION 2 – FINAL DETERMINATION VOTES

The Commission is the final determining body for the following cases:

1. Major Variations (notwithstanding Certain Major Variations as described in Section 3 below)
2. Appeal of Minor and/or Fence Variations
3. Appeal of Decisions made by the Zoning Administrator

The concurring vote of five (5) Commissioners shall be necessary to decide any matter upon which the Commission is the determining body. If, due to the absence of Commissioners for cases in which the Commission is the final authority, a concurring vote of five Commissioners does not occur, the matter shall be continued to the next regularly scheduled meeting or a date certain with the votes so far recorded standing to allow additional Commissioners to view the minutes and/or audio-visual recording of the proceedings, and then vote on the motion at the date certain hearing, or further hearings, until there are five concurrent votes to resolve the case.

### SECTION 3 – RECOMMENDING VOTES

The Commission is a recommending body for the following cases:

1. Text Amendments
2. Map Amendments
3. Special Uses including Planned Developments

4. Certain Major Variations (off-street parking and loading for all uses other than single-family and two-family residential, townhouse orientation, and height beyond 50 feet)
5. Unique Uses
6. Comprehensive General Plan & Area Plans
7. Other studies and reports

When the Commission is recommendatory to the City Council, the matter shall be decided by a majority of the Commissioners present at the meeting. Any recommendation made by the Commission shall include relevant written findings of fact. In the event of a tie, the matter shall proceed to the City Council with no recommendation from the Commission, though the Commission may recommend conditions should the matter be approved by the City Council.

#### **SECTION 4 – ALTERNATIVE PROPOSALS DISMISSED**

If the Commission decides favorably on any portion of an application for which the Commission is the final authority, and the application was filed with alternative forms of relief for the same proposal, and the favorable decision results in all of the relief necessary to allow the proposal to go forward, the remaining alternative forms of relief shall be dismissed without further action.

### **ARTICLE X – MATTERS PREVIOUSLY DECIDED**

Any application which has been brought before the Commission and received a final determination shall not be brought again before the Commission except that the Chair, in consultation with the Secretary or his/her/their designee, may grant another hearing in any case in which the applicant desires to offer new material evidence and testimony that was not available at the time of the previous hearing and determination. Any matter recommended to the City Council shall follow the same process.

Any application that is deemed substantially different from the original application, as determined by the Chair and Secretary or his/her/their designee, may be resubmitted at any time.

### **ARTICLE XI – SPECIAL REGULATIONS FOR APPEALS**

**SECTION 1** – An Appeal may be made to the Commission regarding any zoning determination, regulation, requirement, or decision made by the Zoning Administrator or his/her/their designee.

**SECTION 2** – Before the hearing of the Appeal, the applicant shall provide documentation of all relevant materials including but not limited to violation notices, communication with the

City, submittal dates and relevant applications, plans, and other evidence. The Commission may, at its discretion, collect further information or evidence, which may or may not require the continuance of a case to aid in reaching a decision.

SECTION 3 – The Commission shall determine a) if the determination, regulation, requirement, or decision made was done so erroneously; and b) if a different decision should be made in light of an erroneous decision or in light of additional information or evidence presented. The Commission may reverse or affirm, wholly or partly, may modify the decision, or may overrule the decision.

SECTION 4 – An Appeal decision made by the Commission that grants subsequent zoning relief shall not require a new public notice or new public hearing concerning the relief granted and shall be considered part of the Appeal case.

## **ARTICLE XII – COMPREHENSIVE GENERAL PLAN & AREA PLANS**

Any applicant, or his/her/their designee, may proceed with a request to revise the Comprehensive General Plan, an existing Area Plan, or other long-range planning documents.

### SECTION 1 – COMPREHENSIVE GENERAL PLAN

The Commission shall, from time to time, consider an extensive public process with a variety of public input provided to establish a recommendation to revise an existing or adopt a new Comprehensive General Plan. Any proposed Plan may utilize consulting firms to provide some or all of the evidence and testimony necessary leading up to and during meetings and public hearings related to the Plan. When providing a recommendation, the Commission shall ensure any recommended Plan aligns with the stated Goals & Objectives of the City Council and relevant adopted plans including, but not limited to, the Climate Action & Resilience Plan (CARP) and the Multi-Modal Transportation Plan.

### SECTION 2 – AREA PLANS

The Commission shall, from time to time, consider an extensive public process with a variety of public input provided to establish a recommendation to revise an existing or adopt any new Area Plan, which includes but is not limited to the neighborhood, business district, commercial corridor, and downtown plans. Any proposed Plan may utilize consulting firms to provide some or all of the evidence and testimony necessary leading up to and during meetings and public hearings related to the Plan. Area Plans shall be adopted or revised in conjunction with the Comprehensive General Plan.

## **ARTICLE XIII – SUBCOMMITTEES**

The Commission may establish subcommittees as it deems appropriate. Subcommittees shall make recommendations to the full Land Use Commission. Subcommittees membership shall consist of not more than one-half of the Commissioners serving on the Land Use Commission and shall be appointed by the Chair with the approval of the Commission. Staff shall support all subcommittees and shall maintain minutes and records of their activities. The Secretary of the Commission shall arrange for public notice of meetings required by law or by Commission rule.

Subcommittees shall operate consistent with OMA and the Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*), as amended, and consistent with the current edition of Robert's Rules of Order, which shall be used in any instance in which the Land Use Commission Rules are otherwise silent.

## **ARTICLE XIV – AMENDMENT OF RULES**

### **SECTION 1 – DRAFT AMENDMENT REQUIRED**

These Rules may be amended from time to time by an affirmative vote of the majority of the Commission present. Any proposed amendment shall be provided to all Commissioners before the meeting at which the amendment is considered.

### **SECTION 2 – ALTERNATIVE TO DRAFT AMENDMENT**

Any Rule may be temporarily waived, suspended, or adjusted by an affirmative supermajority vote of two-thirds of the Commissioners present to meet the particular needs of the public hearing process consistent with Constitutional and statutory requirements for due process, and in compliance with the City Code. Such change shall be temporary in nature and shall require a draft amendment according to Section 1 above to become a permanent amendment to the Rules.

EVANSTON LAND USE COMMISSION  
RULES & PROCEDURES

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## ARTICLE I - GENERAL PROVISIONS

### SECTION 1 - PURPOSE

The City Council establishes a Land Use Commission to provide for planning the future development and redevelopment of the Municipality as authorized by Division 12 of the Illinois Municipal Code, 65 ILCS 5/11-12-4 et seq, hear and decide major variations from provisions of the Zoning Ordinance, hear and decide appeals of the Zoning Administrator, hear and make recommendations to the Planning and Development Committee and City Council on applications for certain major variations, all special use permits including planned developments, and applications for map amendments and text amendments to the Zoning Ordinance.

Planning by the Land Use Commission may be directed toward the following ends:

(A) Adoption by the City Council of an Official Comprehensive General Plan or geographic or functional parts thereof, showing the present and future use and development or redevelopment of land in the City, including general statements of policy and objectives. Such Plan in itself shall not be regulatory but shall be for the general guidance of local governments and others.

(B) Adoption by the City Council of new or amended zoning, building construction, and other regulations or ordinances, all designed to bring about the desired use and development or redevelopment of land as indicated in specific or general terms by the Official Comprehensive General Plan.

(C) Adoption from time to time by the City Council, when changed conditions warrant, or it is otherwise desired, changes or amendments in the previously adopted Official Comprehensive General Plan, regulations, ordinances and programs.

(D) Providing for the review of and preparation of reports, recommendations or actions on matters relating to plans for development or redevelopment of the City, public improvements and any matters relating to implementation of the Comprehensive General Plan.

### SECTION 2 - AUTHORIZATION

The establishment of this Commission is provided for in Title 2, Chapter 19 of the City Code by Ordinance 92-O-21.

These rules are supplementary to the City of Evanston Code of Ethics, Title 1, Chapter 10 of the Evanston City Code, 2012, as amended, and the City of Evanston's home rule Zoning Ordinance, Title 6 of the Evanston City Code, 1993, as amended, and are adopted pursuant to the authority contained therein.

These rules are to be read in conjunction with 65 ILCS, 5/11-13-1, *et seq.* "Zoning" and 5 ILCS, 120/1, *et seq.* "Open Meetings" and Ordinance 15-0-78, "Requiring Disclosure of Ownership Interests of Entities Seeking City Council Approval on Real Estate Matters".

These rules shall be followed in conjunction with and compliance with the current edition of Robert's Rules of Order, which shall be used in any instance in which the Land Use Commission Rules are otherwise silent.

Nothing contained herein shall be construed to give or grant the Commission the power or authority to amend or change the Zoning Ordinance, which authority is reserved to the City Council.

### SECTION 3 - OPEN MEETINGS ACT ("OMA")

All meetings and public hearings of the Commission, as defined in the Illinois Open Meetings Act, 5 ILCS 120/1 *et seq.*, as amended, shall be open to the public and subject to public notice requirements.

Information concerning any pending case shall be obtained only from the Secretary of the Commission and shall be posted on the City website available to the public prior to the meeting. Discussion of the merits of any pending case by the public with any Commissioner, except by sworn testimony at a public hearing, is improper, and may be considered prejudicial.

All meetings and hearings shall follow up with audio-visual recordings, meeting actions, and/or meeting minutes that are available to the public.

## ARTICLE II - COMMISSION POWERS & DUTIES

This Article may require updating as the Zoning Ordinance or Land Use Commission establishing Ord. 92-O-21 are amended from time to time. In the case of conflict, the Evanston Municipal Code shall prevail over these rules.

### SECTION 1 - DUTIES AS THE DETERMINING BODY

Major Variations: The Commission shall formulate final determinations for any application for Major Variations (notwithstanding Certain Major Variations as described in Section 2 of this Article), and any combined application for Major and Minor Variations pursuant to Section 6-3-8 of the Zoning Ordinance.

Appeal of Minor & Fence Variations: The Commission shall formulate final determinations for any Appeal of a decision to a Minor and/or Fence Variation made by the Zoning Administrator.

Appeal of Decisions made by the Zoning Administrator including Time Extensions: The Commission shall formulate final determinations for any Appeal of a decision made by Zoning Administrator in the administration or enforcement of the Zoning Ordinance.

### SECTION 2 - DUTIES AS THE RECOMMENDING BODY

Comprehensive General Plan: The Commission shall formulate recommended policy to the City Council for a Comprehensive General Plan, geographic or functional parts thereof, showing the present and future use and development or redevelopment of land in the City, including general statements of policy and objectives. Such Plan in itself shall not be regulatory but shall be for



the general guidance of local governments and others. The Commission shall formulate recommended changes or amendments to the Plan, geographic or functional parts thereof, when changed conditions warrant or it is otherwise desired.

Text & Map Amendments: The Commission shall formulate recommended policy to the City Council for Text & Map Amendments to Zoning Ordinance, Title 6 of the Evanston City Code, 1993, as amended, when changed conditions warrant or it is otherwise desired.

Special Uses including Planned Developments, & Unique Uses: The Commission shall study site-specific requests and make recommendations with conditions to the City Council for Special Uses including Planned Developments, and Unique Uses.

Certain Major Variations: The Commission shall study site-specific requests and make recommendations with conditions to the City Council for certain Major Variations pursuant to Section 6-3-8 of the Zoning Ordinance including but not limited to off-street parking and loading for all uses other than single-family and two-family residential, and height beyond fifty (50) feet.

### SECTION 3 - ADDITIONAL DUTIES

Studies & Reports: The Commission shall initiate studies, reports and recommendations to the City Council on matters concerning the present or future development or redevelopment of the City.

Governmental Proposals: The Commission shall study, review, and prepare recommendations on plans and proposals of other departments of the City government which relate to the implementation of the Comprehensive General Plan.

Other Matters: The Commission shall hear and decide or make recommendations on any other matters referred by the City Council.

### SECTION 4 - POWERS TO CARRY OUT DUTIES

To carry out the above duties, the Land Use Commission shall have the following powers:

1. To invite the advice and assistance of persons having special knowledge, experience or interest in the needs or problems which are receiving consideration by the Land Use Commission. Such advisors may include, among others, officials of an adjoining municipality or of other local governments or other persons not living in the City.
2. To conduct such public hearings as required and as it deems necessary to gather information and ideas needed for thorough review of the Comprehensive General Plan.
3. To promote the realization of the Comprehensive General Plan and the community objectives it incorporates through public education and other means.
4. To request from the Community Development Department such staff time as may be required to assist the Land Use Commission in carrying out its duties.
5. To establish subcommittees of the Land Use Commission as necessary.

6. To designate a spokesperson or representative to speak on behalf of the Commission before the City Council, City Council committees, and other public meetings as necessary.
7. To adopt additional Rules & Procedures deemed necessary to conduct meetings and public hearings and to carry out the duties of the Commission, in conjunction with and compliance with Roberts' Rules of Order and the ~~OMA~~Open Meetings Act.

None of the above, without prior approval by the City Council, shall include the power to obligate the City for compensation to any person or organization.

### ARTICLE III - MEMBERSHIP

#### ~~SECTION 1 - TRANSITIONAL MEMBERSHIP~~

~~Effective January 1, 2023, the Land Use Commission is in its final form consisting of nine (9) transitional members from the now dissolved Zoning Board of Appeals and Plan Commission. These remaining nine (9) Upon formation, the Land Use Commission shall initially consist of eleven (11) members composed of current members of the Plan Commission and Zoning Board of Appeals and their existing respective term expiration dates as adjusted to 4-year terms, subject to appointment to the Land Use Commission by the Mayor and confirmation by the City Council. Thereafter, such transitional members shall be eligible for appointment for one additional full term on the Land Use Commission if reappointed.~~

~~Upon expiration of these initial members' terms, the Land Use Commission in its final form shall consist of nine (9) members.~~

~~Quorum shall consist of the majority of the members on the Land Use Commission at any given time.~~

~~At the first meeting of the Land Use Commission, transitional members shall elect Officers as outlined in Section 3 of this Article.~~

#### SECTION 12 - ~~REGULAR~~ MEMBERSHIP

Appointments of regular members shall be for four (4) years, and shall consist of no more than two terms. Membership shall be appointed by the Mayor, subject to confirmation by the City Council. Regular mMembership shall consist of nine (9) members. Quorum shall consist of the majority of the appointed members on the Land Use Commission at any given time.

All appointed members of the Land Use Commission shall serve as such without compensation, and shall abide by the City's Code of Ethics set forth in Section 1-10-4 of the Municipal Code, as amended.

In the event the Chair determines a member's attendance is hindering the ability of the Commission to perform its duties, When a member of the Land Use Commission has been unable or has failed to attend four (4) consecutive meetings, the Chair may request the Mayor speak to and possibly remove said member. If a member has been unable to attend all

meetings during a consecutive period of four (4) months, such absence may be construed, after notice to the member thereof, as a resignation from the Commission.

### SECTION 23 - OFFICERS

Commission membership shall include the following officer positions:

Chair: At the end of each year, the Commission shall elect a Chair to serve for the following year, with eligibility for re-election. The Chair shall supervise the affairs of the Commission and preside over all meetings.

Vice-Chair: At the end of each year, the Commission shall elect a Vice-Chair to serve for the following year, with eligibility for re-election, whenever the Chair is absent or is unable to serve.

Commission Liaisons: At the end of each year, the Commission shall elect Commission Liaisons for pertinent standing committees in the City that are related to the cases and duties of the Land Use Plan Commission. Liaisons shall attend committee meetings and provide input as it relates to the Land Use Commission. Standing committees that may, but not shall, have Land Use Commission liaisons include the Inclusionary Housing Ordinance Subcommittee and other committees as appropriate.

Subcommittee Officers: At the first meeting of any subcommittee meeting, the Subcommittee shall elect pertinent officers including, but not limited to, a Subcommittee Chair and Vice-Chair.

### SECTION 34 - STAFF SUPPORT

Staff support shall include the following position:

Secretary: The Planning & Zoning Manager~~Community Development Director~~, or his/her/their designee, shall serve as Secretary of the Commission and is responsible for the following duties:

1. Be custodian of the active cases of the Commission and keep all records;
2. Ensure the preservation of all files on which Commission action has been completed;
3. Conduct the correspondence of the Commission;
4. Schedule cases and inform applicants of timeframes, deadlines, and expectations for hearings;
5. Publish qualifying cases for public hearings in a local newspaper as required by law, provide mailed notice of qualifying cases as required by the Zoning Ordinance, and post public hearing signs on qualifying properties as required by the Zoning Ordinance;
6. Prepare a written memorandum for each agenda item that provides a description of the request, background information, impacts, ramifications, alternatives, and a staff recommendation;
7. Ensure audio-visual recordings, meeting actions, and/or meeting minutes of all Commission meetings are available to the public;
8. To prepare in cooperation with the Land Use Commission and within the policy framework established by the Land Use Commission, a Comprehensive General Plan or

amendments to an existing Plan, for the present and future development or redevelopment to the City;

~~7.9.~~ To serve as liaison between the City administration and the Land Use Commission, and professional consultants retained by the City to undertake general or specific studies related to the preparation, modification or implementation of the Comprehensive General Plan;

~~8.10.~~ Provide interpretation of the City Code as it relates to matters heard by the Commission;

~~9.11.~~ Perform other additional duties as may be requested by the Commission and determined to be appropriate duties to engage in.

#### ARTICLE IV - GENERAL APPLICATION REQUIREMENTS

##### SECTION 1 - APPLICANTS

Any case heard by the Commission shall have an official applicant listed on the application submission, and shall be a property owner, authorized representative, contract purchaser, 99-year lessee, City staff initiated, City Council referral, or other governmental agency. In the case of an Appeal, the Appellant shall be an aggrieved party.

A certificate of disclosure of ownership interests of entities seeking recommendation or approval on real estate matters shall be filed with any application on property not held in sole ownership by the applicant.

##### SECTION 2 - COMPLETE SUBMISSION

Any case heard by the Commission shall feature a complete application with all necessary supporting documents and shall include requests for all zoning relief needed to allow the proposal so that the case may be heard as a whole and in its entirety. In any case where physical improvements are contemplated, or deemed necessary, plans sufficient in detail for a Zoning Analysis shall first be submitted to the Community Development Department for review by City staff.

##### SECTION 3 - ALTERNATIVE PROPOSALS

Any application may propose alternative forms of relief for the same proposal, providing a separate filing fee, if applicable, is paid for each alternative request so filed and each case is properly noticed in the newspaper and to neighboring properties.

##### SECTION 4 - PROSPECTIVE PROPOSALS

Applications may not be filed which are prospective with respect to a proposed change to the Zoning Ordinance. However, if a petition or reference has been made and publicly noticed in the newspaper for the Land Use Commission or a subcommittee thereof, such case may proceed at the applicants' own risk. Such case shall not receive a final determination until and unless such original petition or reference is first determined by the authorized body.

#### ARTICLE V - FILING AND SCHEDULING PROCEDURES

In addition to the general application requirements, the following specific requirements apply based on the type of relief requested:

#### SECTION 1 - COMPLETE APPLICATION

The Secretary of the Commission shall determine application completeness and may request or insert additional documents or information as is necessary and pertinent to the case at hand.

#### SECTION 2 - SCHEDULING

Once an application has been deemed complete by staff, such case shall be scheduled to a date(s) certain for pertinent committee meetings and recommending bodies as required by the City Code, including but not limited to, the Historic Preservation Commission, ~~Design & Project Review (DAPR) Committee,~~ and then the Land Use Commission. Meeting dates shall be adjusted as necessary to accommodate continuances or cancelations at prior meetings. Applications shall be processed and scheduled for committee meetings and the Land Use Commission in a timely manner. Scheduling of cases is subject to Commission quorum and/or availability of agenda space. In the event of a backlog of cases to be heard by the Commission, cases will be scheduled for the next available regular or special meeting that has agenda space. In the event the applicant is not present at a meeting for which notice has been given (i.e. agenda, mailed notice, published newspaper, etc.), the matter may be continued to the next regular scheduled meeting.

#### SECTION 3 - NOTICE REQUIREMENTS FOR PUBLIC HEARINGS

The Secretary of the Commission shall give due notice of the time, place and subject of every application to consider proposed map and text amendments, planned developments, unique uses or changes to the Comprehensive General Plan, not more than thirty (30) days nor less than fifteen (15) days before the meeting by publishing a notice thereof at least once in one or more newspapers published in the City in compliance with the requirements of the Zoning Ordinance.

Mailed Notices shall be processed by the Secretary ~~of the Commission~~ and may use a third party to fulfill the mailed notice requirements in compliance with the requirements of the Zoning Ordinance and as outlined in Article VI, Section 6 of these rules. ~~Mailed notices are required to all property owners within 250 feet for Appealed Minor & Fence Variations. Mailed notices are required to all property owners within 500 feet for other Appeals, Major Variations, Special Uses not including Planned Developments, and Map Amendments. Mailed notices are required to all property owners within 1000 feet for Planned Developments and Unique Uses.~~ Failure of delivery of such notice, however, shall not invalidate a case or hearing. Subsequent notices are not required for continuances.

A sign (freestanding or window) shall be posted on the subject property by the Secretary ~~of the Commission~~ a minimum of ten (10) days prior to the public hearing indicating the place, time and date of the hearing, and how to obtain additional information regarding the case.

#### ARTICLE VI - MEETINGS & PUBLIC HEARINGS

#### ~~SECTION 1 - OPEN MEETINGS ACT ("OMA")~~

~~All meetings and hearings of the Commission shall be open to the public and subject to the Illinois Open Meetings Act (5 ILCS 120/1 et seq.), as amended. All meetings and hearings shall follow up with audio-visual recordings, meeting actions, and/or meeting minutes that are available to the public.~~

#### SECTION 12 - MEETING SCHEDULE

Land Use Commission meetings shall be held twice monthly, typically on the second and fourth Wednesday of the month at 7:00 pm, in Council Chambers at the Civic Center. Meetings may be held virtually in addition to or in place of in-person meetings in accordance with ~~OMA~~the Illinois Open Meetings Act (5 ILCS 120/1 et seq.), as amended. Virtual participation by members of the public may be permitted in conjunction with in person participation at the discretion of the Chair, provided virtual meeting information is published in accordance with OMA and notice requirements for public hearings. Meeting dates and times may vary depending on Commissioner availability, agenda management, holidays, and/or meeting room availability, and are subject to confirmation by the Commission Chair and proper public notice. A yearly meeting schedule shall be adopted by the Commission at the end of each calendar year that specifies all regular meeting dates for the upcoming year and published for public viewing in accordance with OMA. preceding year or the first meeting of the current calendar year that specifies all regular meeting dates. ~~No new case shall begin after 10:00 p.m., and Commission meetings shall end by 11:00 p.m., unless the Chair determines the matter in discussion is nearing a conclusion and finds it is in the interest of the matter at hand to allow the meeting a majority of the Commissioners present vote to begin a case after 10:00 p.m. or allow a meeting to proceed a reasonable amount of time beyond 11:00 p.m.~~ Additional or rescheduled meetings may occur as necessary with proper public notice.

#### SECTION 23 - ADDITIONAL OR RESCHEDULED MEETINGS

Additional or rescheduled meetings of the Commission may be held as needed, provided public notice of said hearing is published as required. ~~The Commission shall attempt to schedule a special hearing whenever accepted cases cannot be heard at the next regular hearing because the docket is already full.~~

#### ~~SECTION 4 - QUORUM~~

~~A quorum of the Commission is required for the transaction of any business. A quorum shall consist of a majority of the currently appointed members of the Commission.~~

#### SECTION 35 - RECUSAL

No member of the Commission who has a financial interest in the property or the affairs of a petitioner or affected owner, or who believes he/she/they have some other direct conflict of interest, shall participate in any discussion, questioning, or voting as a Commissioner in the matter involving such property or person. Recusal by any Commissioner shall be clearly stated prior to the start of said agenda item. Any Commissioner who has recused themselves from any agenda item shall leave the dais.

SECTION ~~46~~ - OATH & SWEARING IN

~~For each individual case requiring a public hearing, a~~An oath shall be administered to all persons intending to testify or who may be called to testify during the course of a public hearing. In the case of a hearing that was continued from a previous meeting, the Chair shall remind those who were previously sworn in that they remain under oath.

SECTION ~~57~~ - TESTIMONY & PRESENTATION OF EVIDENCE

All meetings and hearings shall provide time for public ~~testimony~~comment and public comment. To allow for all public ~~testimony comments~~and public comment to be voiced in a timely manner, a time allotment per ~~person~~speaker may be established by the Chair. Any established time limit may be adjusted ~~on a case by case basis~~ by the Chair to accommodate extraordinary circumstances. When allotting speaking time, the Chair may give additional speaking time to those who have a legal interest in real property within the specific mailed notification requirements listed below.

~~Testimony and presentation of evidence regarding site-specific cases shall be limited to the applicant and his/her/their designee, and to persons with a legal interest in real property within the mailed notice boundary for said case, as follows:~~

Planned Development, Unique Use	1,000 foot radius
Map Amendment, Special Use, Major Variation, Appeal of Decisions made by the Zoning Administrator including Time Extensions	500 foot radius
Appeal of Minor and Fence Variations	250 foot radius
Text Amendment, Comprehensive Plan, Other Plans	No mailed notice boundary/ Testimony from all residents accepted

Any person who resides outside of the applicable radius or boundary may give public comment. However, such public comment shall not be construed as testimony or presentation of evidence. Any person residing within the applicable radius may provide public testimony and presentation of evidence.

SECTION ~~68~~ - CONTINUANCES

Any person with a legal interest in real property within the notification boundary for a said case, as stated in Section ~~67~~ above, shall have the right to ~~request~~seek a continuance of a case. Any request for continuance shall be made in writing and include the specific reason(s) the continuance is necessary. The continuance shall be read into the record and a motion to continue shall be called by any member of the Commission, seconded and a roll call vote shall be called. The continuance may be granted if the motion carries by simple majority. ~~and may be granted. Such continuance may be at the Commission's discretion, upon showing the case is unable to proceed with testimony, evidence, or cross-examination at the current hearing for good cause.~~

In the interest of time and receiving testimony from those who are already present at a meeting, the Chair may determine whether it is appropriate to allow testimony to proceed on a given case when a continuance has been requested. If the Chair so determines, the request for continuance shall be heard at the conclusion of public testimony and public comment. A continuance may be granted at the Commission's discretion upon showing the case is unable to proceed with testimony, evidence or cross examination at the current meeting for good cause. Any Commissioner may move a continuance by stating the specific reason.

Should the request for a continuance of for the said case be granted, public announcement shall be made of the date certain upon the continuance being granted. Any continued case begun at a previous hearing shall hear only hear new testimony and receive new evidence specific to the reason for the continuance, on the date to which the case was continued. ~~if testimony remained open at the hearing the continuance was granted.~~

~~Any case in which a continuance is granted by the Commission shall be continued by public announcement to a date certain.~~

Should the request for a continuance of said case be denied, the case shall continue.

## ARTICLE VII - ORDER OF BUSINESS

### SECTION 1 - GENERAL ORDER OF BUSINESS

Meetings of the Commission shall ordinarily proceed as follows, but may be adjusted by the Chair for good reason:

1. Introductory statements and declaration of quorum
2. ~~Call for continuances, abstentions, recusals, and change to agenda order~~
3. ~~Approval~~Review of past meeting minutes  
~~Oath and swearing in~~
4. Old business - hearing of testimony and/or deliberation on continued matters
5. New business - hearing of testimony and deliberation on new matters
6. ~~Communications~~Discussion - upcoming agenda items, meeting dates, trainings, general housekeeping
- 6-7. Public comment regarding non-agenda items
- 7-8. Adjournment

Procedures for public hearings for Old and/or New business are detailed in Article VIII - Procedures for Hearing Cases.

### ~~SECTION 2 - CONSENT AGENDA~~

~~The Commission may allow items to proceed on a consent agenda when all of the following conditions are met:~~

1. ~~Staff and DAPR recommend approval~~
2. ~~Applicant agrees with the staff report and recommended conditions for approval~~
3. ~~There is no one present at the time of the public hearing who intends to comment or introduce evidence in opposition to the case~~



4.1. ~~There are no Commissioners at the time of the public hearing who intend to comment on the case or cross-examine the applicant~~

### SECTION ~~23~~ - MEETING TIME LIMITS

~~The Commission shall not begin any new public hearing agenda item. No new case shall begin after 10:00 pm and Commission meetings shall end at 11:00 pm unless deemed necessary by the Chair determines it is in the interest of the Commission and the public to proceed, and agreed upon by the majority of the Commissioners present.~~

~~The Commission shall not hold any meeting beyond 11pm unless deemed necessary by the Chair and agreed upon by the majority of the Commissioners present.~~ Any matter on the agenda not ~~completed~~heard in full at said meeting shall be rescheduled to the next regularly scheduled meeting or to a date certain.

## ARTICLE VIII - PROCEDURES FOR HEARING CASES

All cases requiring a public hearing shall be conducted in the order set forth below:

### SECTION 1 - CASE INTRODUCTION

Each case shall begin by introducing the matter and shall include the case number, address of the subject property or properties associated with the request and an explanation of the request or the relief sought. The Chair shall explain procedures for the conduct of the case, including but not limited to any time limits, rules governing public comment, that repetition should be avoided, and that all testimony must be relevant to the matter at hand.

If an applicant fails to appear, the Chair may entertain a motion to dismiss the matter or continue the matter to a date certain.

### SECTION 2 - OPENING THE PUBLIC HEARING

Immediately following the Case Introduction and prior to hearing any testimony or receiving any evidence from the applicant, staff, or interested members of the public, the Chair shall announce that the public hearing is now open.

### SECTION 3 - STAFF PRESENTATION

Staff may provide a brief presentation summarizing the staff report and/or pertinent information for the benefit of the Land Use Commission and the public.

### SECTION ~~42~~ - APPLICANT'S PRESENTATION

The applicant shall explain the proposal and may provide additional evidence and testimony. Materials submitted to the Commission prior to the hearing and available to the general public on the City website, including the staff report and recommendation, shall be part of the record.

The applicant shall be limited to a presentation of no more than 20 minutes. A written request for additional time shall be submitted to the Secretary no later than 5 business days prior to the scheduled date at which the case is scheduled and may be approved by the Chair or the Secretary.

SECTION ~~53~~ — PUBLIC COMMENT, TESTIMONY, PUBLIC COMMENT & CROSS-EXAMINATION

Following the applicant's presentation, Commissioners may ask questions about the proposal and Standards for Approval. The applicant shall then be given the opportunity to respond.

Once all Commissioners' questions are addressed, persons with a legal interest in real property within the notification boundary for a case as stated in Article VI, Section ~~57~~, may ask questions about the proposal and Standards for Approval, provide testimony, and present evidence. The applicant shall then be given the opportunity to respond.

Prior to the start of public comment and public testimony, the Chair shall remind the public of the general rules regarding time limits and rules governing public comment, testimony, and cross-examination ~~and public testimonycomment~~. The Chair may exclude any question or cross-examination which is argumentative or irrelevant.

At the Chair's discretion, time not to exceed 10 minutes may be granted to designated speakers of community groups to provide public testimony or public comment on behalf of the group. A written request for time shall be submitted to the Secretary of the Commission no later than 5 business days prior to the scheduled date at which the case is scheduled and may be approved by the Chair or the Secretary. The request for time shall include documentation that states the following:

- The name of the community group, including any legal recognition;
- A list of individuals or institutions being represented.

Examples of group names may include geographical area, institution, or interest. This documentation shall not be considered a petition as otherwise described herein.

The Commission reserves the right to seek clarification of any public comment or testimony and cross-examine any member of the public that speaks in a hearing.

SECTION ~~63~~ - SUBMITTAL OF EVIDENCE & PETITIONS

Any materials to be presented in the Commission's packet that posts on the City website shall be transmitted digitally to the Secretary no less than ~~53~~ business days prior to the Land Use Commission meeting where such material is discussed or considered. Such materials will be included in the information packet for the Commission and posted to the City website for public view. Materials transmitted less than ~~53~~ business days prior to the Land Use Commission meeting where such material is discussed or considered shall be accepted but may not be posted to the City website in advance of the meeting start time.

—A petition favoring or opposing a proposal may be submitted. Such a petition shall ~~include~~ contain only a brief statement of the position of the signatories persons favoring or opposing the proposal, their printed names, addresses, signatures, and whether each name listed holds a

legal interest within the notice boundary area (when applicable). No petition will be admitted into evidence unless the submitter certifies that he/she/they collected all signatures on the petition and that each person signing the petition did so in the presence of the person submitting the petition. A petition provided to the Commission only has a legal effect for Map Amendments and Unique Uses. Any petition received in conformity with this section, for other matters before the Commission, will be included as public testimony or public comment.

Written public testimony or public comment favoring or opposing a proposal may be submitted. Written public testimony or public comment received in a digital format (via public comment form, email or other written digital mechanism) received no later than 5:00 pm the Thursday prior to the duly noticed meeting date will be included in the initial meeting agenda and packet posting and distribution. Written public testimony or public comment received in a digital format (via public comment form, email or other written digital mechanism) received no later than 3:00 pm the day prior to the meeting will be distributed to the Land Use Commission directly via email for their review. Any comments received after 3:00 pm the day before the meeting may be distributed to the Commission at the meeting.

Those seeking to provide public testimony or public comment shall provide their first and last name and may provide their address ~~before making their testimony~~. This is necessary to confirm if the member of the public lives or owns property within the required mailed notice radius for the case in question.

#### SECTION 75 - REQUESTS FOR CONTINUANCE

Any request for continuance shall include the specific reason(s) the continuance is necessary and may be grant the continuance ed, at the Commission's discretion, upon showing the case is unable to proceed with testimony, evidence, or cross-examination at the current hearing for good cause. A request for continuance with lack of appropriate reason may not be granted by the Commission.

In the interest of time, the Commission may determine whether it is appropriate to allow testimony to proceed on a given case when a continuance has been requested. Any member of the public who comments or ~~during~~testifies during the initial public hearing at such time shall not be permitted to re-state the same comments or testimony at the continued hearing. Any case begun at a previous hearing shall only hear new testimony and receive new evidence if testimony remained open at the hearing the continuance was granted.

Any case for in which a continuance is granted by the Commission shall be continued by public announcement to a date certain. Whenever a case is continued to a date certain, no additional notice or publication of notice shall be required providing the notice of the initial hearing met all legal requirements.

Any Commissioner absent from all or a part of a previous public hearing that was continued, who certifies that he/she/they have read the minutes and/or watched the audio-visual

recording(s) of the hearing for any given matter, may then vote upon any motion before the Commission with respect to such matter.

#### SECTION 86 - CLOSING STATEMENTS & REBUTTAL

The applicant and/or staff may offer additional statements that generate further testimony and discussion, and may suggest potential modifications to the original request based on the testimony and evidence presented.

Following additional and closing statements, the record shall be closed for public testimony and public comment~~testimony. After testimony is closed, new evidence may not be offered unless the Commission reopens testimony.~~

#### SECTION 97 - DELIBERATION

~~Within the public hearing, t~~The Commission shall discuss ~~the testimony and evidence presented before them in the public hearing~~ the testimony and evidence presented before them. During deliberation, the Chair may, at the request of any Commissioner, direct clarifying questions to the applicant or any member of the public who testified or provided comment. ~~No further evidence, testimony, or public comment shall be made by the applicant or the public unless the Commission votes to reopen~~ public testimony and public comment~~testimony. New testimony and/or evidence shall not be provided unless testimony is reopened by the Commission. During deliberation, the Chair may, at the request of any Commissioner, direct clarifying questions to the applicant, staff, or any member of the public who testified or provided public comment.~~

#### SECTION 108 - STANDARDS FOR APPROVAL

The end of Deliberation shall include review of the Standards by the Commission. Any Commissioner who believes any individual Standard is not met shall describe in detail why that Standard is not met, ~~and shall cast a corresponding vote that affirms such~~ and shall not vote in favor of the proposal. If a Commissioner believes an unmet Standard can be met by adding a specific condition, the Commissioner may request such condition be placed on the proposal and may then vote affirmatively.

#### SECTION 11 - CLOSING THE PUBLIC HEARING

Immediately following the Deliberation, the Chair shall close the public hearing.

#### SECTION 129 - COMMISSION ACTION

Based on discussion, the Commission shall either a) require the applicant, staff, the public, and/or the City Attorney to provide new or additional information and continue the hearing to a date certain; or b) take action on the matter and make a recommendation or final determination, depending on the case type, based on Standards and findings of facts. Any determination or recommendation may include conditions that keep with the intent of the relevant Standards for Approval.

### ARTICLE IX - RECOMMENDATIONS & FINAL DETERMINATIONS

#### SECTION 1 - MOTIONS

All motions, votes, actions, decisions, and recommendations shall include any necessary conditions for approval, and shall be made at a meeting open to the public. Any decision or recommendation on a case shall be made at the meeting at which testimony is concluded, unless the case is continued to a date certain. No additional testimony or evidence shall be given.

## SECTION 2 - FINAL DETERMINATION VOTES

The Commission is the final determining body for the following cases:

1. Major Variations (notwithstanding Certain Major Variations as described in Section 3 below)
2. Appeal of Minor and/or Fence Variations
3. Appeal of Decisions made by the Zoning Administrator

The concurring vote of five (5) Commissioners shall be necessary to decide any matter upon which the Commission is the determining body. If, due to the absence of Commissioners for cases in which the Commission is the final authority, a concurring vote of five Commissioners does not occur, the matter shall be continued to the next regularly scheduled meeting or a date certain with the votes so far recorded standing in order to allow additional Commissioners to view the minutes and/or audio-visual recording of the proceedings, and then vote on the motion at the date certain hearing, or further hearings, until there are five concurrent votes to resolve the case.

## SECTION 3 - RECOMMENDING VOTES

The Commission is a recommending body for the following cases:

1. Text Amendments
2. Map Amendments
3. Special Uses including Planned Developments
4. Certain Major Variations (off-street parking and loading for all uses other than single-family and two-family residential, townhouse orientation, and height beyond 50 feet)
5. Unique Uses
6. Comprehensive General Plan & Area Plans
7. Other studies and reports

When the Commission is recommendatory to the City Council, the matter shall be decided by a majority of the Commissioners present at the meeting. Any recommendation made by the Commission shall include relevant written findings of fact. In the event of a tie, the matter shall proceed to the City Council with no recommendation from the Commission, though the Commission may recommend conditions should the matter be approved by the City Council.

## SECTION 4 - ALTERNATIVE PROPOSALS DISMISSED

If the Commission decides favorably on any portion of an application for which the Commission is the final authority, and the application was filed with alternative forms of relief for the same proposal, and the favorable decision results in all of the relief necessary to allow the proposal to go forward, the remaining alternative forms of relief shall be dismissed without further action.

## ARTICLE X - MATTERS PREVIOUSLY DECIDED

Any application which has been brought before the Commission and received a final determination ~~either by the Commission or the City Council~~ shall not be brought again before the Commission except that the Chair, in consultation with the ~~Secretary Zoning Administrator~~ or his/her/their designee, may grant another hearing in any case in which the applicant desires to offer new material evidence and testimony that was not available at the time of the previous hearing and determination. Any matter recommended to the City Council shall follow the same process.

Any application that is deemed substantially different from the original application, as determined by the Chair and ~~Secretary Zoning Administrator~~ or his/her/their designee, may be resubmitted at any time.

## ARTICLE XI - SPECIAL REGULATIONS FOR APPEALS

SECTION 1 - An Appeal may be made to the Commission regarding any zoning determination, regulation, requirement, or decision made by the Zoning Administrator or his/her/their designee.

SECTION 2 - Prior to the hearing of the Appeal, the applicant shall provide documentation of all relevant materials including but not limited to violation notices, communication with the City, submittal dates and relevant applications, plans, and other evidence. The Commission may, at its discretion, collect further information or evidence, which may or may not require the continuance of a case to aid in reaching a decision.

SECTION 3 - The Commission shall determine a) if the determination, regulation, requirement, or decision made was done so erroneously; and b) if a different decision should be made in light of an erroneous decision or in light of additional information or evidence presented. The Commission may reverse or affirm, wholly or partly, may modify the decision, or may overrule the decision.

SECTION 4 - An Appeal decision made by the Commission that grants subsequent zoning relief shall not require a new public notice or new public hearing in relation to the relief granted and shall be considered part of the Appeal case.

## ARTICLE XII - COMPREHENSIVE GENERAL PLAN & AREA PLANS

Any applicant, or his/her/their designee, may proceed with a request to revise the Comprehensive General Plan, an existing Area Plan, or other long-range planning documents.

### SECTION 1 - COMPREHENSIVE GENERAL PLAN

The Commission shall, from time to time, consider an extensive public process with a variety of public input provided to establish a recommendation to revise an existing or adopt a new Comprehensive General Plan. Any proposed Plan may utilize consulting firms to provide some or all of the evidence and testimony necessary leading up to and during meetings and public hearings related to the Plan. When providing a recommendation, the Commission shall ensure

any recommended Plan aligns with the stated Goals & Objectives of the City Council and relevant adopted plans including, but not limited to, the Climate Action & Resilience Plan (CARP) and the Multi-Modal Transportation Plan.

## SECTION 2 - AREA PLANS

The Commission shall, from time to time, consider an extensive public process with a variety of public input provided to establish a recommendation to revise an existing or adopt any new Area Plan, which includes but is not limited to neighborhood, business district, commercial corridor, and downtown plans. Any proposed Plan may utilize consulting firms to provide some or all of the evidence and testimony necessary leading up to and during meetings and public hearings related to the Plan. Area Plans shall be adopted or revised in conjunction with the Comprehensive General Plan.

## ARTICLE XIII - SUBCOMMITTEES

The Commission may establish subcommittees as it deems appropriate. Subcommittees shall make recommendations to the full Land Use Commission. Subcommittees membership shall consist of not more than one half of the Commissioners serving on the Land Use Commission and shall be appointed by the Chair with the approval of the Commission. Staff shall support all subcommittees and shall maintain minutes and records of their activities. The Secretary of the Commission shall arrange for public notice of meetings required by law or by Commission rule.

Subcommittees shall operate ~~in a manner~~ consistent with OMA the Illinois Open Meetings Act (5 ILCS 120/1 et seq.), as amended, and the Illinois Freedom of Information Act (5 ILCS 140/1 et seq.), as amended, and ~~in a manner~~ consistent with the current edition of Robert's Rules of Order, which shall be used in any instance in which the Land Use Commission Rules are otherwise silent.

## ARTICLE XIV - AMENDMENT OF RULES

### SECTION 1 - DRAFT AMENDMENT REQUIRED

These Rules may be amended from time to time by an affirmative vote of the majority of the Commission present. Any proposed amendment shall be provided to all Commissioners prior to the meeting at which the amendment is considered.

### SECTION 2 - ALTERNATIVE TO DRAFT AMENDMENT

Any Rule may be temporarily waived, suspended, or adjusted by an affirmative supermajority vote of two-thirds of the Commissioners present to meet the particular needs of the public hearing process consistent with Constitutional and statutory requirements for due process, and in compliance with the City Code. Such change shall be temporary in nature and shall require a draft amendment pursuant to Section 1 above to become a permanent amendment to the Rules.