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Date April 24, 2023

RESOLUTION APPROVING AMENDMENTS TO THE PROCEDURAL RULES OF THE DES MOINES CITY PLAN & ZONING COMMISSION

WHEREAS, the City Plan and Zoning Commission has the authority under Section 2-1055 of the Des Moines Municipal Code to adopt rules for the orderly conduct of its meetings and of the gathering of information, subject to final approval of such rules by the City Council; and,

WHEREAS, on July 29, 1991, by Roll Call No. 91-3121, the City Council approved the current *Procedural Rules of the Des Moines City Plan & Zoning Commission*; and

WHEREAS, on January 7, 2002, by Roll Call No. 02-099, the City Council amended the *Procedural Rules of the Des Moines City Plan & Zoning Commission*; and

WHEREAS, on June 3, 2002, by Roll Call No. 02-1381, the City Council amended the *Procedural Rules of the Des Moines City Plan & Zoning Commission*; and

WHEREAS, the City Plan and Zoning Commission has advised in the accompanying letter that at their meeting on April 6, 2023, the members voted 8-2 in support of a motion to amend paragraphs 13 & 26 of the Commission's rules, as attached, to clarify the 'passing' and 'abstaining' voting options and process also clarifying resulting official vote counts.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the proposed amendments to the procedural rules of the City Plan and Zoning Commission are hereby approved.

MOVED by _____ to adopt. SECOND by _____.

FORM APPROVED:

/s/ Chas M. Cahill
Chas M. Cahill
Assistant City Attorney

CERTIFICATE

I, LAURA BAUMGARTNER, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
SHEUMAKER				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

April 18, 2023

Communication from the City Plan and Zoning Commission advising that at their April 6, 2023 meeting, the following action was taken for consideration of an amendment to the Plan and Zoning Commission Procedure Rules (Bylaws) to clarify the 'passing' and 'abstaining' voting options.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 8-2 as follows.

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus					X
Dan Drendel	X				
Leah Rudolphi	X				
Carol Maher		X			
Abby Chungath	X				
Kayla Berkson	X				
Chris Draper		X			
Todd Garner	X				
Johnny Alcivar	X				
Justyn Lewis	X				
Carolyn Jenison					X
William Page					X
Andrew Lorentzen					X
Emily Webb	X				
Katie Gillette					X

ACCEPT the amendment to the Plan and Zoning Commission Procedure Rules (Bylaws) to clarify the 'passing' and 'abstaining' voting options.

PROPOSED REVISIONS TO PART IV (CONDUCT OF MEETINGS)

10. Presiding Officer. The Chair, or in the Chair's absence or incapacity, the Vice Chair, shall be the presiding officer at all Commission meetings. If both the Chair and Vice Chair are absent, the Second Vice Chair shall preside.

11. Introduction. At the start of each Commission meeting, the presiding officer shall read a prepared introductory statement to the citizens present. Said introductory statement shall be approved by the Commission and shall address the conduct of

meetings and the advisory role of the Commission.

12. Control of Discussion. The presiding officer shall control discussion of the Commission on each agenda item to assure full participation in accordance with these rules.
13. Discussion. A Commission member shall speak only after being recognized by the presiding officer. A Commission member recognized for a specific purpose shall limit remarks to that purpose. A Commission member after being recognized shall not be interrupted except by the presiding officer to enforce these rules. A Commission member who has a conflict of interest regarding any item under discussion shall notify the Chair of said conflict of interest at the beginning of the presentation on said item, or as soon thereafter as possible if the existence or nature of the conflict is not known to the Commission member at the outset of the presentation, and then leave the meeting until the conclusion of presentation, discussion, and voting on any item for which a member has a conflict of interest. A Commission member who has a conflict of interest regarding any item under discussion shall not participate in the discussion of that matter and shall not vote on that matter. A Commission member who has a conflict of interest shall be counted towards the number of members necessary to constitute a quorum.
14. Presiding Officer's Right to Enter into Discussion. The presiding officer as a member of the Commission may enter into any discussion.
15. Limit on Remarks. Each Commission member shall limit his or her remarks to a reasonable length.
16. Courtesy. All Commission members shall maintain a courteous tone, and, especially in reference to any divergence of opinion, shall avoid injecting a personal note into the discussion. The remarks of every person shall at all times be germane and relevant to the particular question before the Commission. Commission members making personal, impertinent, or slanderous remarks shall be barred by the presiding officer from further comment before the Commission on that agenda item. In the event a Commission member repeatedly makes such remarks which result in a bar from comment, the presiding officer may create and appoint members of a committee to investigate and review the actions of the Commission member. Such committee shall submit a report for the approval of the Commission which report may recommend removal of the commission member by the City Council if cause is shown.

PROPOSED REVISIONS TO PART VI (COMMISSION ACTION)

26. Motion Required. All formal action by the Commission shall be initiated by motion of a member. No second shall be required. No motion shall be made before the close of the public hearing, if one is held on the question, nor shall any member, during the public hearing of any question, refer to any probable motion which may be made by any member of the Commission. No main motion shall be made while any other motion is pending. The Commission shall not vote on the main motion until close of debate. The following motions may be voted on by the Commission

prior to close of debate:

- a. a motion to amend or a subsidiary motion made to assist the Commission in disposing of the main motion;
- b. a motion to continue debate; or
- c. a motion to call the question.

After debate is closed, the presiding officer shall put the main motion or amended main motion to the vote of the Commission.

When the Commission votes on any item, each Commission member shall vote "yea", "nay" or "pass", and each such vote shall be recorded and included in the minutes of the meeting. The minutes shall reflect any member who recuses themselves from a matter due to a conflict of interest as set forth in Part IV, paragraph 13 of these Rules, but the record of votes shall not indicate any vote from such member.

27. Motion to Reconsider. A motion to reconsider must be made by a Commission member who is on the prevailing side of the original action during the same meeting the original action was taken. Approval of a motion to reconsider shall bring the question before the Commission as if it had not been previously considered.
28. Rights of Presiding Officer. The presiding officer shall have the same voting rights as the other members of the Commission.

SUMMARY OF DISCUSSION

Jason Van Essen stated this is part of an ongoing discussion on how to best record commissioners votes and using the right terminology for the intent of their vote. Abstaining should be used when a commissioner is not a part of a discussion due to a conflict of interest. Passing would be used when a commissioner feels conflicted on how they want to vote.

Chris Draper asked what would be considered not leaving.

Jason Van Essen stated the intent is to leave the realm of where the discussion is happening.

Chas Cahill stated the common practice is to leave the gallery of commissioners. We can avoid any conflict if there is no discussion or vote from the abstaining commissioner.

Chris Draper stated would we consider a commissioner has left the meeting if they are intending influence while in the public audience.

Jason Van Essen stated city staff could come up with terminology that's a little more definitive if the commission preferred.

Carol Maher stated a conflict of interest seems to happen more on this commission than others. She believes it's a good standard for commissioners to leave the room as they do at City Council meetings.

Emily Webb stated this isn't getting brought up because of commissioners physically in the audience, it's because commissioners are abstaining after taking part in the discussions.

Jason Van Essen stated he felt comfortable with the draft amendment as written but would also support changing the language to say commissioners must leave the gallery if they have a conflict as that reflects the current practice.

COMMISSION ACTION:

Emily Webb made a motion to accept the amendment to the Plan and Zoning Commission Procedure Rules (Bylaws) to clarify the 'passing' and 'abstaining' voting options.

Motion passed: 8-2

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jason Van Essen".

Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

PROCEDURE RULES OF THE DES MOINES CITY PLAN & ZONING COMMISSION

PART I. General Provisions

1. Scope of Rules. These rules shall govern the conduct of the City Plan Commission and shall be interpreted to insure fair and open deliberations and decision making. Each Commission committee shall be free to follow procedures of its choosing in conducting its meetings.
2. Technical Parliamentary Forms Abolished. Except as specifically required by these rules, the Commission shall not use any formal points of parliamentary order, personal privilege, parliamentary inquiry or other technical forms.
3. Matters Not Covered. Any matter or order or procedure not covered by these rules shall be referred to the presiding officer who shall decide the matter with the assistance and advice of the Parliamentarian or the Legal Department representative in conformity with the purpose of these rules in a fair and expeditious manner. The decision of the presiding officer may be reversed by a majority vote of the Commission.
4. Interpretation. These rules are intended to supplement and shall be interpreted to conform with the statutes of the State of Iowa and the ordinances of the City of Des Moines, including Municipal Code Sections 82-31 through 82-48.

PART II. Time and Place of Meetings

5. Regular Meetings. The Commission shall adopt by resolution a schedule of regular meeting dates for the next calendar year prior to the beginning of such year. The schedule shall include deadlines for submission of rezoning applications and other requests for consideration at each meeting. The regular meetings of the Commission shall be held the first and third Thursday of each month in the City Council Chambers, except when a legal holiday falls on Thursday, then the meeting may be held on a succeeding date. In the event the Planning Department determines that a quorum of the Commission will not be present or determines that there will be no agenda items requiring action, the Chair may postpone a regularly scheduled meeting to another date and time, or may cancel a meeting.
6. Special Meetings. In compliance with Municipal Code Section 82-35, the special meetings may be held upon the call of the Chair or upon written request signed by three Commission members. Notice for a special meeting shall be the same as that required for a regular meeting.
7. Quorum. As set forth in Municipal Code Section 82-37, eight members of the Commission shall constitute a quorum for the transaction of business, but eight affirmative votes shall be required to approve any public improvement.

PART III. Agenda

8. Preparation of Agenda. Prior to each regular Commission meeting, the Planning Department shall publish an agenda which contains all items the Commission anticipates acting upon at the meeting.
9. Order of Consideration of Agenda. Each agenda item shall be considered in the numerical order assigned by the Planning Department. With the consent of the Commission, any agenda item may be considered out of order at the request of a Commission member.

PART IV. Conduct of Meetings

10. Presiding Officer. The Chair, or in the Chair's absence or incapacity, the Vice Chair, shall be the presiding officer at all Commission meetings. If both the Chair and Vice Chair are absent, the Second Vice Chair shall preside.
11. Introduction. At the start of each Commission meeting, the presiding officer shall read a prepared introductory statement to the citizens present. Said introductory statement shall be approved by the Commission and shall address the conduct of meetings and the advisory role of the Commission.
12. Control of Discussion. The presiding officer shall control discussion of the Commission on each agenda item to assure full participation in accordance with these rules.
13. Discussion. A Commission member shall speak only after being recognized by the presiding officer. A Commission member recognized for a specific purpose shall limit remarks to that purpose. A Commission member after being recognized shall not be interrupted except by the presiding officer to enforce these rules. **A Commission member who has a conflict of interest regarding any item under discussion shall notify the Chair of said conflict of interest at the beginning of the presentation on said item, or as soon thereafter as possible if the existence or nature of the conflict is not known to the Commission member at the outset of the presentation, and then leave the meeting until the conclusion of presentation, discussion, and voting on any item for which a member has a conflict of interest. A Commission member who has a conflict of interest regarding any item under discussion shall not participate in the discussion of that matter and shall not vote on that matter. A Commission member who has a conflict of interest shall be counted towards the number of members necessary to constitute a quorum.**
14. Presiding Officer's Right to Enter into Discussion. The presiding officer as a member of the Commission may enter into any discussion.
15. Limit on Remarks. Each Commission member shall limit his or her remarks to a reasonable length.
16. Courtesy. All Commission members shall maintain a courteous tone, and, especially in reference to any divergence of opinion, shall avoid injecting a personal note into the discussion. The remarks of every person shall at all times be germane and

relevant to the particular question before the Commission. Commission members making personal, impertinent, or slanderous remarks shall be barred by the presiding officer from further comment before the Commission on that agenda item. In the event a Commission member repeatedly makes such remarks which result in a bar from comment, the presiding officer may create and appoint members of a committee to investigate and review the actions of the Commission member. Such committee shall submit a report for the approval of the Commission which report may recommend removal of the commission member by the City Council if cause is shown.

17. Order of Speakers. During any public hearing, the presiding officer shall recognize speakers in the following order:
 - a. Planning Department staff;
 - b. Applicant and other proponents of the proposal;
 - c. Objectors to the proposal;
 - d. Rebuttal by applicant.

In appropriate cases, the presiding officer may allow exceptions to the order of presentation. A Commission member recognized by the presiding officer may direct questions to any speaker.

18. Closing Hearing. After all members of the public have had the opportunity to speak at a public hearing, the presiding officer shall close the public hearing and open the question to discussion by Commission members.
19. Order of Commission Discussion. During the period of discussion by Commission members, the presiding officer shall recognize members in the order in which they address the Chair, subject to the following rules:
 - a. If a motion is open to debate and the member who made the motion addresses the Chair and has not already spoken on the question, then that member is entitled to be recognized in preference to other members.
 - b. No member shall be entitled to speak a second time on the same question as long as any other member who has not spoken on the same question desires to speak.
 - c. Once a member is recognized, that member may request information, explanations or opinions of other members, City staff, the Legal Department representative or persons in the audience. The person to whom the request is addressed shall be entitled to the floor for the limited purpose of responding to the request.
20. Presiding Officer's Right to Speak Last. The presiding officer has the right to close debate and speak last on any item.
21. Closing Debate. Discussion shall be closed on any item by the presiding officer unless a motion to continue debate is approved by a majority of the Commission. Discussion may also be closed by a motion to call the question approved by a majority of the

Commission.

PART V. Citizen Participation

22. Time Limit on Applicant Presentation. The representative of the Applicant for rezoning or other requests shall be limited to ten minutes speaking time. Additional speaking time may be granted at the discretion of the presiding officer.
23. Time Limit on Proponent and Opponent Comments. Each speaker other than the applicant representative shall be limited to five minutes speaking time. The presiding officer shall encourage any spokesperson for a group of people to speak first and identify the members of the group. Additional speaking time may be granted to a group spokesperson at the discretion of the presiding officer.
24. Time Limit on Rebuttal. The representative of the applicant shall be limited to five minutes additional speaking time following the comments of proponents and opponents.
25. Remarks of Citizens to be Germane. Citizen comments must be directed to the subject under consideration. The presiding officer shall rule on the germaneness of citizen comments. Citizens making personal, impertinent, or slanderous remarks shall be barred by the presiding officer from further comment before the Commission during the meeting.

PART VI. Commission Action

26. Motion Required. All formal action by the Commission shall be initiated by motion of a member. No second shall be required. No motion shall be made before the close of the public hearing, if one is held on the question, nor shall any member, during the public hearing of any question, refer to any probable motion which may be made by any member of the Commission. No main motion shall be made while any other motion is pending. The Commission shall not vote on the main motion until close of debate. The following motions may be voted on by the Commission prior to close of debate:
 - a. a motion to amend or a subsidiary motion made to assist the Commission in disposing of the main motion;
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the meeting. The minutes shall reflect any member who recuses themselves from a matter due to a conflict of interest as set forth in Part IV, paragraph 13 of these Rules, but the record of votes shall not indicate any vote from such member.

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28. Rights of Presiding Officer. The presiding officer shall have the same voting rights as the other members of the Commission.

PART VII. Miscellaneous

29. Parliamentarian. At the first regular meeting following election, the Chair shall appoint a Parliamentarian. The Parliamentarian shall become familiar with these procedure rules and shall provide assistance and advice to the presiding officer as set forth in paragraphs 3 and 32 herein.
30. Executive Committee. An executive committee consisting of the elected officers of the Commission may, at the discretion of the Chair, be convened to discuss ministerial functions of the Commission.
31. Other Committees. The Chair shall create and appoint members of committees to investigate, discuss and make recommendations to the Commission on such matters including, but not limited to, budget, regulations and ordinances, growth issues and transportation.
32. Point of Order. If a Commission member believes that the procedure rules are being violated, that member may raise a point of order. The presiding officer shall rule on the point of order with the assistance and advice of the Parliamentarian or the Legal Department representative and enforce the rules if necessary.
33. Officers. The officers of the Commission shall be a Chair, a Vice Chair and a Second Vice Chair, who shall perform the usual duties pertaining to such offices. These officers shall be chosen by the Commission from its members. The Vice Chair shall perform all the duties of the Chair, during the absence or disability of the Chair. The Second Vice Chair shall perform all the duties of the Chair, during the absence or disability of both the Chair and Vice Chair.
34. Election of Officers. At the first regular meeting each calendar year, the Chair shall appoint a nominating committee to nominate a slate of officers. At the second regular meeting each calendar year, the Commission shall elect a Chair, Vice Chair and Second Vice Chair, from nominations made by the nominating committee and by any member. Upon their election, such officers shall immediately assume the duties of their office.
35. Vacancy. In the event that an officer of the Commission ceases to be a member of the Commission for any reason, then the Commission shall elect a new member to fill that vacancy for the remainder of the term.

Approved: Roll Call No. 91-3121 of July 29, 1991
Amended: Roll Call No. 02-099 of January 7, 2002
Amended: Roll Call No. 02-1381 of June 3, 2002