

**CITY OF FAIRBURN
PLANNING AND ZONING COMMISSION
BYLAWS, RULES OF PROCEDURE & CODE OF CONDUCT**

I. Powers and Duties

- A. The Powers and Duties of the City of Fairburn Planning and Zoning Commission (hereafter referred to as the “Planning and Zoning Commission” are established in Section 80-271 and other appropriate sections of Code of Ordinances of the City of Fairburn.
- B. The Planning and Zoning Commission shall follow in the consideration of zoning and planning decisions and recommendations, and the administration thereof, the Procedures established in Section 80-266 *et al.* of the Code of Ordinances of the City of Fairburn.

II. Composition and Design of Planning and Zoning Commission

- A. Members: The Planning and Zoning Commission shall be composed of seven (7) members. The Fairburn City Mayor shall nominate members to Council who shall approve said nominees by a majority vote.
- B. Terms: The term of office of the members of the Planning and Zoning Commission shall be staggered four (4) year terms or until their successors are appointed. No one may serve on the Planning and Zoning Commission more than two full four-year consecutive terms.
- C. Vacancies: Resignations from the Planning and Zoning Commission must be submitted in writing to the Secretary of the Planning and Zoning Commission. The Fairburn City Mayor and Council, upon receiving the written basis and after a public hearing, shall remove members of the Planning and Zoning Commission for just cause, including, but not limited to:
 - 1. Failure to attend three (3) consecutive, regular voting meetings of the Planning and Zoning Commission;
 - 2. Failure to maintain permanent residence within the jurisdiction of the City of Fairburn; or
 - 3. Violation of Planning and Zoning Commission Bylaws or Rules of Procedure.

Vacancies caused by resignation or for other reasons shall be filled for the unexpired term in the same manner as for a full term.

- D. Eligibility: Members of the Planning and Zoning Commission must be residents of the City of Fairburn. Members may not be employed by the City of Fairburn. Members of the Planning and Zoning Commission may not serve as elected officials of the City of Fairburn.

III. Officers, Quorum and Affirmation of Motions:

- A. Officers: Elections for Officers will occur at the Planning and Zoning Commission’s first regular voting meeting of the City of Fairburn's fiscal year.
 - 1. Chair: The Planning and Zoning Commission shall elect one of its members as Chair, who will serve for one year or until a successor is elected. The Chair may be elected for no more than two consecutive, one-year terms. The Chair shall decide all points of order and procedure, unless directed otherwise by a majority of the Planning and Zoning Commission, subject to these bylaws, provisions of Chapter 80, The Zoning Ordinance, of the Code of Ordinances of the City of Fairburn, or any other applicable ordinance within the Code of Ordinances of the City of Fairburn and Webster’s New World Robert’s Rules of Order: Simplified and Applied, 2nd Edition¹. The Chair shall appoint any committees found necessary to facilitate any business before the Planning and

Zoning Commission. The Chair shall have the authority to determine the need to call for a roll call vote when a voice vote is inconclusive. The Chair shall direct the Secretary to prepare the agenda for each meeting.

2. Vice Chair: The Planning and Zoning Commission shall elect one of its members as Vice Chair, who will serve for one year or until a successor is elected. The Vice Chair may be elected for no more than two consecutive, one-year terms. The Vice Chair shall serve as Acting Chair of the Planning and Zoning Commission in the absence of the Chair. Upon the resignation or disqualification of the Chair, the Vice Chair shall assume the position of Chair for the remainder of the unexpired term. Following the vacancy of the previous Vice Chair, the Planning and Zoning Commission shall elect a new Vice Chair at its next regular meeting. Completion of an unexpired term as Chair by the Vice Chair shall not preclude the Planning and Zoning Commission member from serving a complete term as Chair.
3. If neither the Chair nor the Vice Chair is present for a meeting, then the Planning and Zoning Commission shall elect on the record at such meeting, a member who is present to serve as temporary Acting Chair for that meeting only.
4. Secretary: The Zoning Administrator or lawful designee shall serve as the Planning and Zoning Commission's Secretary. The Secretary, at the direction of the Chair, shall prepare the agenda for each meeting and maintain the minutes of the meetings of the Planning and Zoning Commission.

B. Quorum: To constitute a quorum for the transaction of business, there shall be required to be present at any meeting of the Planning and Zoning Commission at least four (4) members.

C. Decisions of the Planning and Zoning Commission: The Decisions of the Planning and Zoning Commission shall be by majority vote of the members present and voting, a quorum being present. In the event of a member's abstention based on a conflict of interest or other disqualification, the abstention shall count as if that member were absent and the number of persons necessary for a majority shall be reduced accordingly without affecting the quorum. The Chair of the Planning and Zoning Commission will vote only in the instance of a tie vote. Recommendations to the Mayor and Council shall be for the approval, approval with conditions, or denial of an application. Final decisions on applications or matters before the Planning and Zoning Commission, such as appeals heard by the Planning and Zoning Commission, shall be approved, approved with conditions, tabled, or denied.

IV. Bylaws and Rules of Procedure: The membership of the Planning and Zoning Commission shall adopt Rules of Procedure and By-laws not in conflict with the provisions of Chapter 80, The Zoning Ordinance of the Code of Ordinances of the City of Fairburn, or any other applicable ordinance within the Code of Ordinances of Fairburn City. Notice of the intent to amend and the content of the amendment shall be distributed in writing to each member of the Planning and Zoning Commission no less than three (3) days prior to the meeting at which the vote to amend is taken. Adoption by majority of the membership of the Planning and Zoning Commission shall be required to amend or adopt the Rules of Procedure and the Bylaws. For instance, if all seven (7) Planning and Zoning Commission positions are appointed and filled, four (4) votes are necessary to adopt or amend the Rules of Procedure or the Bylaws regardless of the number of members present at the meeting.

V. Meetings: Meetings of the Planning and Zoning Commission shall be held at the call of the Chair and at such other times as the Planning and Zoning Commission may determine. All meetings of the Planning and Zoning Commission shall be open to the public. However, members of the public shall not address the Planning and Zoning Commission until invited to do so by the Chair. Regular meetings of the Planning and Zoning Commission shall be held monthly. Called meetings may be held, as needed, following provisions in the Bylaws Section: V(B).

- A. The Regular Planning and Zoning Commission Meeting Schedule is as follows, unless otherwise announced:

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| Date | 1 st Tuesday of each Month |
| Time | 7:00 |
| Location | City Hall |

- B. Special Called Meetings may be held as needed by the Chair by giving notice to all members not less than twenty-four (24) hours prior to the time set for the meeting. The Secretary and the newspaper which serves as the legal organ shall be notified of any Special Called Meetings at the same time as the members are notified. A notice shall be placed in a public location at the meeting site indicating the time, date, location and Agenda for the Special Called Meeting. The public notice requirements as established in Article VIII, Section 80-295 of the Zoning Code of the City of Fairburn are in effect for Special Called Meetings. Only those items listed on the Agenda shall be considered at a Special Called Meeting.

- C. Cancellation of Meetings:

1. Whenever there is no business before the Planning and Zoning Commission, the Chair may dispense with a regular meeting by giving notice to all members not less than twenty-four (24) hours prior to the time set for the meeting. The Secretary and the newspaper which serves as the legal organ shall be notified of any cancellation of meetings at the same time as the members are notified. A notice shall be placed in a public location at the meeting site indicating that the meeting has been cancelled.
2. Whenever the City of Fairburn has closed its offices due to inclement weather, then any meetings of the Planning and Zoning Commission for that day shall be cancelled.

- D. Adjourned Meetings: Should the Planning and Zoning Commission not complete the business before it, the Chair may adjourn the same and schedule a continuation of the same meeting until the Agenda has been completed. However, the adjourned meeting must meet the same requirements for the notification of the Secretary and for the posting of a notice as with a Special Called Meeting.

- E. Work Sessions: Work Sessions of the Planning and Zoning Commission may be called by the Chair of the Planning Commission. These meetings, while informal in nature, shall be open to the public and shall meet the same requirements for notice to the Secretary and posting of the agenda or announcement of the meeting as for the Special Called Meetings.

- F. Minutes and Agendas:

1. Minutes: The Planning and Zoning Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. Minutes shall also include records of the examinations of the Planning and Zoning Commission and other official actions. Minutes shall be part of the public record. A recorded tape will serve as the official record of the meeting. These minutes shall, at a minimum, include the names of the members present at the meeting, a description of each motion or other proposal made, and a record of all votes. In the case of a roll-call vote, the name of each person voting for or against a proposal shall be recorded and in all other cases it shall be presumed that the action taken was approved by each person in attendance unless the minutes reflect the name of the persons voting against the proposal or abstaining. Copies of the recorded tape minutes are available to the public at the cost of duplication. Summary Minutes will be prepared by the Secretary and available to the public after adoption by the Planning and Zoning Commission. The applicant or any other party to the proceedings may have a verbatim transcript prepared by an official court reporter, certified in the State of Georgia, at his or her own expense;

provided, however, a copy of the transcript shall be filed with the Secretary and copies made available to other parties at actual cost.

2. In addition to the Minutes of the Planning and Zoning Commission, a summary of the subjects acted on and those members present at a meeting of the Planning and Zoning Commission shall be written and made available to the public for inspection within two (2) business days of the adjournment of the meeting.
3. Agenda: The Secretary, at the direction of the Chair, shall prepare the agenda for each meeting. The agenda shall be posted in a public location no less than twenty-four hours prior to the meeting. The Planning and Zoning Commission and the Mayor and Council, shall receive copies of the agenda no less than twenty-four hours prior to the regularly scheduled meeting. The normal order of business at each meeting shall be:
 - i. Determination of Quorum;
 - ii. Election of Acting Chair, if necessary;
 - iii. Introduction of All Documents into the Official Record;
 - iv. Approval of Minutes of the Previous Meeting(s);
 - v. Old Business;
 - vi. Administrative Hearing;
 - vii. New Business;
 - viii. Other Business;
 - ix. Adjournment

VI. Conflict of Interest: The Planning and Zoning Commission members shall be governed by the provisions of the Official Code of Georgia (O.C.G.A.) § 36-67A-1 et seq., (Chapter 67 A, Conflict of Interest in Zoning Actions) and as follows:

A. Definitions: As used in this section the following definitions shall apply:

1. “Applicant” means any person who appears before the Planning and Zoning Commission and any attorney or other person representing or acting on behalf of a person who applies for an appeal, a variance, or any other action that the Planning and Zoning Commission has the duty to consider in the application of its powers granted in Article VII, of the Zoning Code of the Code of Ordinances of the City of Fairburn.
2. “Business entity” means any corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust.
3. “Campaign contribution” means a “contribution” as defined in paragraph (6) of Official Code of Georgia (O.C.G.A.) § 21-5-3 et seq.
4. “Financial interest” means all direct ownership interests of the total assets or capital stock of a business entity where such ownership interest is 10 percent or more.
5. “Member of the family” means the spouse, mother, father, brother, sister, son or daughter of a Planning and Zoning Commission member.
6. “Opponent” means any person who opposes an application request or any attorney or other person representing or acting on behalf of a person who opposes a Planning and Zoning Commission action.
7. “Oppose” means to appear before, discuss with, or contact, either oral or in writing, any local government or local government official and argue against an appeal or variance request.

8. "Person" means an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.
 9. "Property interest" means the direct ownership of real property and includes any percentage of ownership less than total ownership.
 10. "Real property" means any tract or parcel of land and, if developed, any buildings or structures located on the land.
- B. A Planning and Zoning Commission member who knew or reasonably should have known that he or she has one or more of the following interests shall immediately disclose the nature and extent of such interest, in writing, to the Zoning Administrator:
1. Has a property interest in any real property affected by a Planning and Zoning Commission action which the Planning and Zoning Commission will have the duty to consider and or make recommendation on; or
 2. Has a financial interest in any business entity which has a property interest in any real property affected by a Planning and Zoning Commission action which the Planning and Zoning Commission will have the duty to consider; or
 3. Has a member of the family having any interest described in paragraph 1 or 2 of this section.

The Planning and Zoning Commission member who has one or more of the interests defined in paragraph 1, 2 or 3 of this section shall disqualify his or herself from voting on the agenda item under consideration. The disqualified Planning and Zoning Commission member shall not take any other action on behalf of himself or herself, or any other person, to influence action on the application. To that end, the disqualified Planning and Zoning Commission member shall not make presentations to the Planning and Zoning Commission, speak to the Planning and Zoning Commission on behalf of or in opposition to an item under consideration, or present written argument in favor of or in opposition to members of the Planning and Zoning Commission, with the exception of those materials contained as part of the official application. Such presentations may, however, be made to the Mayor and Council if the item appears before them. The disclosures provided for in this section shall be a public record and are available for public inspection at any time during normal working hours.

If a motion cannot be passed because of the number of Planning and Zoning Commission Members having a conflict of interest then the item shall be sent to the Mayor and City Council without prejudice, recommendations or decision.

VII. Code of Conduct: Each member of the Planning and Zoning Commission shall adhere to the following code of conduct:

- A. Uphold the Constitution, laws, and regulations of the United States, the State of Georgia, and all governments therein and never be a party to their evasion;
- B. Never discriminate by the dispensing of special favors or privileges to anyone, whether or not for remuneration;
- C. Not engage in any business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his or her governmental duties;
- D. Never use any information coming to him or her confidentially in the performance of governmental duties as a means for making private profit;

- E. Expose corruption wherever discovered;
- F. Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors, hospitality, or services from any person, association, or corporation under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the performance of the member's official duties;
- G. Never accept any economic opportunity under circumstances where he or she knows or should know that there is a substantial possibility that the opportunity is being afforded him or her with intent to influence his or her conduct in the performance of his or her official duties;
- H. Never engage in other conduct which is unbecoming to a member or which constitutes a breach of public trust; and
- I. Never take any official action with regard to any matter under circumstances in which he or she knows or should know that he or she has a direct or indirect monetary interest in the matter or in the outcome of such official action.

If any member of the Planning and Zoning Commission shall violate any provision of this article, that individual shall no longer be eligible to serve in any capacity with the Planning and Zoning Commission.

VIII. Planning and Zoning Commission Policy Regarding Site Visits and Communications Received Outside of the Hearing or Decision-Making Process:

- A. Members of the Planning and Zoning Commission shall not decide how they will vote on a matter pending before the Planning and Zoning Commission until after the conclusion of the evidentiary proceeding on the application.
- B. Planning and Zoning Commission Members shall avoid the appearance of premature decision-making by adhering to the following rules of conduct.
- C. Planning and Zoning Commission Members shall disclose any discussion outside the hearing or decision-making process with anyone other than staff or other Planning and Zoning Commission Members, on the record, at the Planning and Zoning Commission meeting at which the subject application is under review. Such disclosure shall include the name of the person with whom the matter was discussed and the nature of the conversation.
- D. If by virtue of a site visit or otherwise, a Planning and Zoning Commission Member obtains what he or she considers to be pertinent information concerning a matter under review and such information is not presented at the hearing or meeting on the matter, such Planning and Zoning Commission Member shall disclose said information on the record, at the hearing or Planning and Zoning Commission meeting, and all parties present shall be given a chance to respond.

IX. Administrative Hearings: Administrative Hearings, such as those held to consider appeals before the Planning and Zoning Commission, shall be conducted as provided for within the Code of Ordinances of the City of Fairburn in relation to the specific ordinance under which the application is being presented to the Planning and Zoning Commission.

- A. The burden is on the applicant to demonstrate by clear and convincing evidence that all criteria for issuance of the requested action has been satisfied.
- B. The Chair, or in his/her absence the Acting Chair, may administer oaths and compel the attendance of witnesses by subpoena.

- C. The Planning and Zoning Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, which shall be of public record.
 - D. The Planning and Zoning Commission shall make the decision on the requested action based on the criteria found in Article VII of the Zoning Code of the Code of Ordinances for the City of Fairburn.
 - E. The Planning and Zoning Commission shall issue a written decision containing findings of fact and conclusions, either approving, approving with conditions, or denying the application.
 - F. Interpretations. The Planning and Zoning Commission decision is final.
- X. Rules of Procedure: The Planning and Zoning Commission shall use the Rules of Procedure associated with each requested application and action as appropriate and as found in the related sections of the Code of Ordinances for the City of Fairburn. In the absence of specific Rules of Procedure, the following shall be utilized.
- A. Planning and Zoning Commission Meeting: At Planning and Zoning Commission Meetings, the following procedure will be followed regarding items before the Planning and Zoning Commission that are not part of an official Administrative Hearing:
 - 1. Fairburn City staff will present their report and recommendations on each request.
 - 2. Comments will be received during the Public Hearing from the petitioner and any other individuals or groups that wish to speak in favor of a request.
 - 3. Comments will then be received from anyone who wishes to speak in opposition of a request.
 - 4. Statements in opposition to the request may be followed, if necessary, by a brief response from the petitioner.
 - 5. The Public Hearing will close and no additional public comments will be accepted, unless requested by the Planning and Zoning Commission.
 - 6. The Planning and Zoning Commission will discuss the request. At the discretion of the Chair, the Planning and Zoning Commissioner's may ask for further information from members of the public who spoke during the Public Hearing.
 - 7. The Planning and Zoning Commission will then entertain a motion and take a vote on the request.
 - 8. Motions can be for approval, approval with conditions, to table or to deny the request.
 - 9. Any person speaking to the Planning and Zoning Commission shall be asked to provide their Name, Home Address, and Occupation. Speakers shall address all comments to the Planning and Zoning Commission and not to other members of the audience. The following time limits for speakers shall be observed:
 - i. The Petitioner or one representative – no more than (10) minutes.
 - ii. A specified Interest Group shall have a total of no more than ten (10) minutes and must register the group's intent to utilize the ten minute time period with the

Secretary no later than the scheduled time for the Planning and Zoning Commission meeting to be first called to order.

- iii. Any individual who wishes to speak for or against a petition or issues shall have three (3) minutes to address the Planning and Zoning Commission.
- iv. The petitioner will be allowed to clarify any issues during public comment and shall have a minimum of two (2) minutes to do so.

B. Administrative Hearing: At an Administrative Hearing, all persons supporting or opposing an item before the Planning and Zoning Commission may take either one or two different opportunities to address the Planning and Zoning Commission on the proposed application; as follows:

- 1. Proponents shall first present their ten (10) minute argument and evidence in support of the item before the Planning and Zoning Commission, and opponents shall then present their ten (10) minute argument and evidence in opposition to the proposed appeal or variance request.
- 2. Neither side will be required to use all of its ten (10) minute argument period.
- 3. Either side may allocate its ten (10) minute argument period among any number of speakers, provided that the presentation by all speakers for each side shall not exceed ten (10) minutes per side.
- 4. All persons wishing to speak longer than three (3) minutes during one side's ten (10) minute argument period must register their intent to do so with the Secretary not later than the time of the meeting of the Planning and Zoning Commission at which the administrative hearing on the item before the Planning and Zoning Commission is to be conducted is first called to order.
- 5. In the event that all persons wishing to speak longer than three (3) minutes as a part of one side's ten (10) minute argument are not able to agree how that side's ten minute argument period shall be allocated, they shall inform the Chairman of their disagreement before either side begins its 10-minute argument, in which event the Chairman shall decide and announce the manner in which that side's ten (10) minute argument period shall be allocated. Any Planning and Zoning Commission member dissatisfied with the Chairman's allocation of that side's ten (10) minute argument shall have the right to appeal the Chairman's allocation decision to the Planning and Zoning Commission before either side begins its ten (10) minute argument.
- 6. After the supporters and opponents of the item before the Planning and Zoning Commission have concluded their ten (10) minute arguments, any person who has not yet spoken either for or against the item before the Planning and Zoning Commission shall be allowed to address the Planning and Zoning Commission concerning the item before the Planning and Zoning Commission for no longer than three (3) minutes per person.

C. Tabling the Application: The Planning and Zoning Commission shall use the following procedures for a requested table of an application:

- 1. When an agenda item is set for hearing before the Planning and Zoning Commission for the first time, the Commission shall accept a petitioner's request to table the item for hearing at another regular meeting of the Commission without deliberation on the merits of the request if the request is made in writing, signed by the applicant, and received by the Commission staff at least 48 hours prior to the meeting being called to order. The petitioner shall request a specific regular meeting date for the hearing within three (3)

months.

2. In the event an agenda item has been tabled previously and/or a written request to table is not made as required in paragraph (1) above, a petitioner's request to table the item is subject to Commission deliberation on the merits of the request to table. If the Commission votes to table the request, the hearing shall be set for the next regular meeting of the Commission unless the Commission determines additional time is needed.