

PLANNING COMMISSION BY-LAWS

City of Niles

Berrien County, Michigan

January 9, 2023

Planning Commission

December 28, 2022

Niles City Council

January 9, 2023

Prepared by

CITY OF NILES PLANNING COMMISSION

Assisted by

WILLIAMS & WORKS

BY-LAWS AND RULES OF PROCEDURE

I. AUTHORITY.

These By-laws and Rules of Procedure are adopted by the City of Niles Planning Commission (hereinafter referred to as the "Commission") pursuant to the Michigan Planning Enabling Act, Act 33 of 2008, as amended, and the City of Niles Ordinance, as amended.

II. MEMBERSHIP.

A. Members

The Planning Commission shall consist of nine (9) members, or such other number determined by the City Council and authorized by law, who shall be appointed in accordance with the City of Niles Ordinance.

B. Officers

1. **Officers and their selection.** At the first meeting of the Commission in the calendar year, the Commission shall select from its membership a Chairperson and Vice-Chairperson, who shall serve for a one (1) year period and who shall be eligible for reelection.
2. **Duties.** A Chairperson shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein. The Vice-Chairperson shall act in the capacity of the Chairperson in the absence of the Chairperson and shall succeed to the office of Chairperson in the event of a vacancy in that office in which case the Commission shall select a successor to the office of Vice-Chairperson at the earliest practical time. The City Council member of the Planning Commission shall not be eligible to serve as Chairperson of the Planning Commission in accordance with the Michigan Planning Enabling Act, and by default, cannot become Vice-Chairperson.
3. **Tenure.** The officers shall take office immediately following their election. The term of each member shall be three (3) years, and until a successor is appointed and qualified, except that a City Council member appointed as a member of the Planning Commission shall have a term corresponding with that person's term as a member of the City Council. The duration of the terms of members first appointed to the Commission shall vary, though not exceeding three (3) years, so that terms will expire in different years. A successor shall be appointed not more than one month

after the term of the preceding commission member has expired. All vacancies for unexpired terms shall be filled for the remainder of such term.

C. Secretarial Duties

1. **Secretary.** The Commission may select from its membership a Secretary or it may select a non-member to act as Secretary. The Secretary shall have the responsibility of keeping the minutes or record of all meetings and other pertinent records, conducting all necessary correspondence, and performing such other administrative duties as are designated by the Commission.
2. **Zoning Administrator.** The Zoning Administrator or other person authorized by the City Council shall be responsible for preparing and giving all notices of public hearings and meetings, preparing, posting and otherwise serving all Open Meetings Act meeting notices, notifying Commission members of meetings, delivering communications, petitions, reports and related items of business to the Commission, and preparing all written decisions or orders of the Commission.

D. Membership Rules. The City Council may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. It shall be considered an act of nonfeasance if a member has three (3) consecutive unexcused absences from regularly scheduled meetings or if a member misses at least fifty percent (50%) of the meetings, both regular meetings and special meetings, within a twelve (12) month period. As the first step in the removal proceedings, the Secretary shall prepare a memorandum requesting that the member resign. If the member fails to resign, a request shall be made by the Commission to the Mayor to take the next step in the removal process.

E. Annual Report. The Commission shall prepare and submit to the City Council an annual written report concerning the Commission's operations during the preceding year and the current status of its planning and zoning activities, including, if desired, recommendations concerning actions by the City Council related to planning and zoning within the City. The annual report to the City Council shall be prepared and submitted during the first month of each calendar year, covering the preceding calendar year, or as soon thereafter as practicable.

III. MEETINGS.

A. Types of Meetings and Meeting Notices

1. **Regular meetings.** Regular meetings of the Commission may be held in the City Hall on a date established by the Commission at the first meeting of the Commission in the calendar year. The date, time and place shall be posted in a conspicuous place at the City Hall no later than ten (10) days after the date of the meeting establishing the regular meeting dates. Any changes in the date, time or place of the regular meetings shall be posted at the City Hall within three (3) days after the meeting at which the change is made and at least two (2) days before the rescheduled regular meeting, and notice of the change shall be given to each member of the Commission at least two (2) days before the rescheduled meeting. Changes in the schedule of regular meetings shall not be made except upon the approval of a majority of the Commission members in attendance. When a regular meeting date falls on or near a legal holiday, the Commission may select suitable alternate dates in the same month in accordance with the Open Meetings Act.
2. **Special meetings.** Special meetings may be held at the call of the Chairperson, or they may be scheduled in advance during a regular meeting; and in both instances, at least two (2) days' notice shall be given in advance of the meeting by posting a copy of the notice at the City Hall and by mailing in ordinary first-class mail or delivering a copy of the notice, or by contacting each member of the Commission. The notice shall contain the date, time, place, and purpose of the meeting.
3. **Notification to media and others.** The Zoning Administrator shall notify, without charge, any newspaper or radio or television station of such meeting schedule, schedule changes, or special meetings, whenever such newspaper or radio or television station shall have filed with the Commission a written request for such notice. The Zoning Administrator shall also notify other individuals or organizations of regular meeting schedules, changes in the schedule, or special meetings, but only upon their written request. The Zoning Administrator shall mail all such notices by first class mail.

B. Place of Meetings

Regularly scheduled meetings may be held in City Hall. Whenever the regular meeting place of the Commission shall appear inadequate for members of the public to attend, the Chairperson may change the meeting to a larger facility located in or near City Hall. A notice of such change shall be prominently posted on the door of the regular meeting place.

C. Time of Meetings

Regularly scheduled meetings shall begin at 5:30 PM unless the Commission has established by majority vote an earlier or later starting time. The Commission shall not begin considering any matter on the agenda not yet under consideration by the hour of 8:30 PM in the evening except by unanimous consent of the Commission members present. Matters on the agenda and not yet acted upon at the time of adjournment will be placed on the agenda of the next regular meeting or special meeting, if one is called.

D. Quorum

In order for the Commission to conduct business or take official action, a quorum consisting of at least five (5) of the nine (9) members of the Commission shall be present. When a quorum is not present, no official action, except closing of the meeting, may take place. The members of the Commission may discuss matters of interest, but can take no action until the next regular or special meeting. In the event the Commission shall meet and a quorum is not present, the Commission, upon the action of a majority of those present, may adjourn the meeting to another day provided that proper notice is given to the members and to the public.

IV. PUBLIC HEARINGS.

A. In General

If the time for notice allows, meetings at which public hearings are held shall be scheduled for the next regular or special meeting.

B. Notice of Public Hearings

Public hearings shall be scheduled and due and proper notice shall be given in accordance with the City of Niles Zoning Ordinance and the Michigan Zoning Enabling Act (PA 110 of 2006, as amended).

C. Conduct of a Public Hearing

1. Opening remarks by the chairperson. The Chairperson of the Commission shall officially open the hearing and he/she shall provide a brief description of the subject of the hearing and any history or other information which might be relevant to the hearing.

2. **Announcement of hearing rules. The Chairperson or Secretary shall announce the following hearing rules:**
 - a. **This is a public hearing designed to receive comments on the above subject. Only comments regarding this subject will be accepted, and the Commission and applicant for relief will not be required to answer questions posed by members of the public unless deemed appropriate by the Chairperson.**
 - b. **All persons wishing to comment shall be given an opportunity to do so.**
 - c. **The person addressing the Commission should state his/her name and address and make comments directly to the Commission.**
 - d. **Each person speaking shall limit his/her comments to three (3) minutes.**
 - e. **Everyone shall have an opportunity to speak before a person is allowed to speak a second time.**
 - f. **If at any time during the hearing, the Chairperson feels no other relevant comments are being stated or the public is out of order, a motion may be requested to close the public hearing. The Chairperson may, at his/her discretion, terminate unreasonably repetitive, irrelevant, or lengthy comments which are non-productive to the issue at hand.**
3. **Remarks and/or recommendations by others. The Commission may allow the Zoning Administrator, Planner, Attorney, or other consultant to address the Commission in regard to the matter at hand to make a recommendation if the Commission deems it appropriate.**
4. **Conduct of the Public Hearing**
 - a. **Presentation by Applicant. This shall include remarks by applicant or spokesman for applicant directed to the Planning Commission, if any.**
 - b. **Reading or summary of written correspondence received by the Planning Commission;**
 - c. **People in audience addressing the Planning Commission with regard to the application;**

- d. Applicant's response. The Planning Commission may provide the applicant with an opportunity to respond to matters raised by the public or to questions posed by the Planning Commission.

5. Deliberations

- a. Upon conclusion of the presentations and relevant public comment, the Chairperson shall close the public portion of the hearing for Commission deliberations. No further input shall be allowed from the applicant or public after commencement of deliberations unless specifically requested or permitted by the Commission.

- b. Deliberations should involve the following:

- (1) A discussion among the members of the Commission;
- (2) Formulation of a motion rendering a decision on the matter before the Commission, which motion must include the reasoning or rationale in support of the decision, and any conditions imposed.

- 6. Voting on motion. Before the motion is voted upon, it may be restated by the Secretary for purposes of clarifying the meaning of the motion. The motion should then be voted upon, with all members present voting and without any member abstaining.

- 7. Announcement of decision and adjournment. The announcement of the results of the voting and the meaning of the decision should be done by the Chairperson.

V. CONDUCT OF MEETINGS.

A. Order of Business

The order of business at a Commission meeting shall be as follows:

- I. Call to order.
- II. Pledge of Allegiance.
- III. Roll call.
- IV. Approval of minutes of previous meeting.
- V. Approval of agenda.
- VI. Public Hearing(s).
- VII. Public comments.

- VIII. Old business (any unfinished or ongoing business).
- IX. New business.
- X. Other matters to be reviewed by the Commission.
- XI. Administrative items.
- XII. Commissioner reports.
- XIII. Adjournment.

Where a meeting includes a public hearing, consideration of old and new business may be waived to allow more time for consideration of the subject of the hearing.

B. Motions

Motions for decisions on matters before the Commission may be restated by the Secretary before a vote is taken. The name of the maker and supporter of the motion shall be recorded and the reasoning or rationale for the decision shall be clearly stated in the motion, along with any conditions, if applicable.

C. Voting

Voting shall ordinarily be by voice vote; provided, however, that a roll call vote may be required if requested by any Commission member or directed by the Chairperson. All members of the Commission, including the Chairperson, except where it has been determined that the member has a conflict of interest, shall vote on all matters. A member shall be excused from participating and voting if that person has been determined to have a conflict of interest pursuant to V, D hereof. No member shall abstain from voting unless it has been determined that he has a conflict of interest.

Unless otherwise required by law, an affirmative vote of a majority of the Planning Commission members present and voting shall be required for the approval of any motion, resolution or other action or decision by the Commission.

D. Conflict of Interest

1. Disqualification from participation as a member. A member shall be disqualified from participating and voting on any issue in which the member has a conflict of interest. If a Commission member has disclosed a conflict of interest, or if the Commission has determined by majority vote that a member has a conflict of interest, the Commission member shall depart from the table and shall not participate in any way in the matter.

2. **Definition of conflict of interest.** A member of the Commission shall be deemed to have a conflict of interest as to any matter or proceeding pending before the Commission if, without limitation: (1) the member has a direct or indirect pecuniary or financial interest in the outcome of the matter at issue; or (2) the matter at issues involves the member's business or place of employment; or (3) participation in making a decision might violate the letter or spirit of a member's code of professional ethics or responsibility; or (4) the member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.
3. **Raising issue of conflict of interest.** Although the issue of whether or not a member has a conflict of interest should be raised by the member who believes he/she has a conflict of interest, the issue of a conflict of interest may also be raised by another member of the Commission or by the applicant for the matter at hand. The issue should be raised prior to the commencement of the public hearing or the discussion on the subject matter or as soon as the conflict of interest is discovered.
4. **Determination of issue of conflict of interest.** The determination of a conflict of interest shall be made by the Commission upon motion of the member claiming a conflict of interest or upon motion of another member of the Commission, and by majority vote of those present and voting.
5. **Grounds for removal.** Failure of a member to raise the issue of a possible conflict of interest and to have the Commission rule upon it shall constitute malfeasance in office and shall be grounds for removal from office.

E. Rules of Order

All meetings of the Commission shall be conducted in accordance with generally accepted parliamentary procedures as governed by *Robert's Rules of Order*.

F. Minutes or Record of Meeting

The Secretary of the Commission shall maintain or keep minutes or a record of its proceedings and copies of the minutes or record shall be filed in the office of the City Clerk, and they shall be a public record. The minutes shall contain a brief synopsis of the meeting, including a complete statement of all motions and recording of votes; a complete statement of

the decision or recommendation, including any conditions thereto, made on any action taken by the Commission; and a recording of attendance. All correspondence and other communications, any written resolutions, decisions or other documentation of action taken, any exhibits submitted at hearings shall be attached to the minutes or other record of the proceedings.

VI. OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS.

A. Open Meetings Act

1. All meetings of the Commission shall be held in accordance with the Open Meetings Act, Act 267 of 1976, as amended (MCL 15.261 et. seq).
2. All deliberations and decisions of the Commission shall be made at a meeting open to the public.
3. A person shall be permitted to address a hearing of the Commission under the rules established in Subsection IV, D, and to address the Commission concerning non-hearing matters under the rules established in Subsection V, A, to the extent that they are applicable.
4. A person shall not be excluded from a meeting of the Commission except for a breach of the peace committed at the meeting.

B. Freedom of Information Act

All records, files, publications, correspondences and other materials are available to the public for reading, copying and other purposes as governed by the Freedom of Information Act.

VII. AMENDMENTS.

These By-laws and Rules of Procedure may be amended by the Commission by a concurring vote of the majority of those Commission members present for the conduct of business during any regular or special meeting, provided that all members have received in advance a copy of the proposed amendments at least three (3) days prior to the meeting at which such amendments are to be considered.

VIII PLANNING COMMISSION AND CITY COUNCIL APPROVAL.

Planning Commission and City Council Approval. These By-laws and Rules of Procedure and any amendments shall be approved by the Planning Commission and the City Council.

Planning Commission Motion to Adopt

Motion by Fouche, and supported by Warburton to adopt the foregoing By-laws and Rules of Procedure of the Planning Commission at a regular meeting held on December 28, 2022.

Votes: Ayes: Thomas, Warburton, Correa, DiCostanzo, Fouche,
Hollister, Pulling, Scally.

Nays:

Absent:

City Council Motion to Adopt

Motion by DiCostanzo, and supported by McAfee to adopt the foregoing Bylaws and Rules of Procedure of the Planning Commission.

Votes: Ayes: Rogers, McAfee, Weimer, DiCostanzo, Thompson,
Dunnem

Nays:

Absent: Boggs, Bertschy

Bylaws and Rules of Procedure adopted January 9, 2023



Tina Bergman, City Clerk