

## Planning Commission Rules of Procedure

In all meetings of the Ketchikan Gateway Borough Planning Commission/Platting Board, at which business is conducted and official action is taken upon any questions, the following shall apply:

RULE 1. A motion to amend a motion is in order. A motion to amend an amendment is not in order and shall not be entertained.

RULE 2. No appeal from any decision of the Presiding officer shall be entertained unless it has been seconded, and no other business shall be in order until the question on the appeal has been decided. The question on the appeal is not debatable and shall be put as follows: "Shall the decision of the Chair stand as the judgement of the Commission/Platting Board?". The question shall be deemed to be decided in the affirmative unless a majority of the votes given are to the contrary.

RULE 3. While a question is under debate, the Presiding Officer shall receive any of the following motions, but none other:

1. To adjourn
2. To recess
3. To raise a question of privilege
4. To call for the orders of the day, or the regular order
5. To lay on the table
6. For the previous question
7. To limit or extend limits of debate
8. To postpone to a certain time
9. To refer
10. To amend
11. To postpone indefinitely

When any of the above motions have been made, none of the other inferior to it, in the order in which they stand above shall be made, and in proceeding to vote, motions pending shall be put in the order of their rank as above arranged. The first seven are not subject to debate. A motion to adjourn shall always be in order provided that business of a nature to be recorded in the journal has been transacted since any previous motion to adjourn has been defeated. No motion of proposition of a subject different to that under consideration shall be admitted under color of an amendment.

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When a matter has been specially assigned to be taken up at a fixed time, or a certain state of proceedings, such matter shall, at the appointed time or at any time subsequent thereto, be in order upon the call of any member, and shall take precedence over all other business.

RULE 4. Any member may, at any time during the meeting, make a parliamentary inquiry of the Chair.

RULE 5. Any member may, at any time, make a point of order without a second. The Presiding Officer may speak to points of order in preference to other members and shall decide all such questions, subject to appeal to the Commission/Platting Board by motion duly seconded. No other business shall be in order until the question on the appeal has been decided.

RULE 6. Four (4) members constitute a quorum. A majority of those present are required to pass a motion. In the case of conditional use permits, a majority of the commission as a whole, or four members are required to approve/deny an application. In the event of a borough declaration of disaster emergency, the physical quorum requirements are suspended for the duration of the emergency. During the period of a state of borough emergency, the Commission/Platting Board may convene with a quorum of members appearing in person, or electronically, or a combination of members appearing in person and electronically through a live or real-time participation format. In the case of such emergency, all members appearing in person or appearing electronically shall be deemed present for the purposes of these rules.

RULE 7. In the event that circumstances preclude a member's attendance at four (4) consecutive, regularly scheduled meetings, or 50% over any six month period computed current, the Commission may find cause for a recommendation for removal to be forwarded to the Borough Mayor.

RULE 8. The Presiding Officer shall put all questions in the order they are moved, unless a subsequent motion, due to parliamentary natures, has precedence.

RULE 9. When a motion has been passed or denied, any member who voted on the prevailing side may move a reconsideration thereof within 24 hours as outlined in Robert's Rules of Order.

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RULE 10. A decision of the Platting Board or Planning Commission at the conclusion of a quasi-judicial proceeding may be reconsidered:

- a. On a motion of a Planning Commissioner/Platting Board Member voting on the prevailing side if:
  - i. Less than 24 hours has elapsed since the decision;
  - ii. The decision has not been distributed to the applicant;
  - iii. The reconsideration will not be prejudicial to the applicant; and
  - iv. The reconsideration is to correct a substantial procedural or factual error in the original proceedings;
- b. A request by a party to the proceedings (the applicant, planning staff, or any respondent) filed with the Planning Clerk within 5 days of the date of distribution of the decision is out of order and will be rejected by the Planning Clerk unless the request is accompanied by an assertion of one of the following grounds and is filed together with materials supporting the assertion. :
  - i. There was substantial procedural error in the original proceedings; or
  - ii. The official, board or commission acted without jurisdiction in the original proceeding; or
  - iii. The original decision was based on fraud or misrepresentation.
- c. A rehearing shall be conducted in the same manner as the original proceeding.

RULE 11. Any motion must be reduced to writing if the Presiding Officer so requires or any member so demands, and no other motion shall be entertained until a reasonable time, not over thirty (30) minutes, has been afforded for compliance with this rule.

RULE 12. Tapes of all meetings shall be retained for twenty-four (24) months.

RULE 13. Any previous vote may be rescinded at any time by the votes of four (4) members of the Commission/Platting Board if the subject matter has not passed out of the control of the Commission/Platting Board.

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RULE 14. At every regular meeting of the Commission, the order of business shall be as follows:

1. Call to Order
2. Presentation of Minutes
3. Special Orders
4. Correspondence
5. Persons to be Heard
6. Unfinished Business/Public Hearings
7. New Business/Public Hearings
8. Consent Agenda
9. Regular Business
10. Remarks
11. Adjournment

RULE 15. A proposed amendment to, or repeal of, any rule shall be: 1) submitted in writing, be laid on the table at the meeting to which it is submitted, and shall become the first item of regular business at the next regular meeting; or 2) presented in the published agenda as regular business.

RULE 16. In all matters of parliamentary procedure not covered by these rules, Robert's Rules of Order shall be applicable and govern.

RULE 17. These rules of order of business shall be followed, unless suspended temporarily for a special purpose of any emergency nature by four (4) affirmative votes. Any member may move at any time for the suspension of any rule, and such motion must be seconded to entitle it to consideration.

RULE 18. If any member, in speaking or otherwise, violates the rules of the Commission/Platting Board, the Presiding Officer shall, or any member may, call them to order; in which case the member called to order shall immediately cease discussion unless permitted by the Presiding Officer to explain; and the Commission/Platting Board if appealed to, shall decide the question without debate. If otherwise, the member shall not proceed without leave of the Commission/Platting Board to proceed in order.

RULE 19. A member about to speak shall respectfully address the Chair, and shall not begin

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to speak until recognized by the Presiding Officer. When two (2) or more members request to speak at the same time, the Presiding Officer shall determine which one is recognized.

RULE 20. Every member while speaking shall confine themselves to the subject under debate, shall refrain from personalities, and shall not refer to any other member of the Commission, or the public, except in a respectful manner.

RULE 21. Unless a member who has the floor yields for that purpose, no member shall interrupt another while speaking, except to propound a parliamentary inquiry or make a point of order.

RULE 22. No Member shall speak more than twice for more than five (5) minutes continuously to any one question, except that one or more additional period of five (5) minutes may be granted by unanimous consent of those members present.

RULE 23. In all meetings of the Commission the vote shall be taken by “yeas” and “nays”. The Presiding Officer without further debate upon the questions shall request the members voting in the affirmative and negative, respectfully, to so indicate and shall declare the result.

RULE 24. Any member who moves a question, or who participates in the discussion, must vote on said question.

RULE 25. Every member present shall vote on questions before the Commission/Platting Board, unless excused by the Chairman for reasons of conflict of interest. A member who is involved in a matter that may result in a violation of KGBC 2.20.010 through 2.20.160 and Chapter 2.55 KGBC shall disclose the matter on the public record and ask to be excused from the discussion and official action on that matter. The Chairman or presiding officer or any other member of the body may raise the issue of whether participation in official action on a matter would be a potential violation of KGBC 2.20.010 through 2.20.160 and Chapter 2.55 KGBC by another official and seek a ruling of the presiding officer. The Chairman or presiding officer shall determine whether the member's involvement would violate KGBC 2.20.010 through 2.20.160 and Chapter 2.55 KGBC. If the Chairman or presiding officer determines that a violation would exist if the member continues to participate, the member shall refrain from

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voting, deliberating, or participating in the matter. The Chairman or presiding officer's decision may be overridden by a majority vote of the body.

RULE 26. A member shall declare a potential conflict of interest prior to any discussion on a quasi-judicial or legislative request in which a member has a substantial financial interest. A member shall disclose any financial interest, including current or anticipated future employment or services to be provided to the applicant with regards to the proposed project or property which is the subject of the request or a similar interest of the member's immediate family, including spouse, child, father or mother. The member shall indicate whether the financial interest will affect his/her ability to objectively review the request.

For the Purpose of this Commission rule, a substantial financial interest is defined as provided in KGBC 2.20.030.

RULE 27. Planning Commission members shall comply with the limitations in KGBC 2.20.040.

RULE 28. Regular meetings of the Commission/Platting Board shall be held and convene at 6:00 p.m. on the second and fourth Tuesdays of the month, except when in the opinion of the Presiding Officer and in consultation with Planning Department staff, all business for the month can be adequately accomplished at the first meeting of the month. In such case the Presiding Officer will announce the cancellation of the second regular meeting at the close of business at the regular meeting immediately preceding the meeting to be cancelled.

#### Procedures for Conducting a Quasi-Judicial Hearing

RULE 1. The Planning Commission holds quasi-judicial hearings for conditional use permits, major variances, certain subdivision and site plan applications and for certain other applications. During a quasi-judicial hearing, the Hearing Body must hold an evidentiary hearing and make its decision based on the written and oral evidence presented. Unlike legislative decisions (like re-zonings), a quasi-judicial decision must be based solely on the evidence presented and cannot be based on opinions of members of the Hearing Body. Put differently, a quasi-judicial decision is one that requires the Hearing Body to find facts and exercise discretion when applying the standards of an ordinance to a specific situation.

RULE 2. Reconsideration or rehearing shall be permitted only in accordance with Rules of Procedure - Rule 10.

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- RULE 3. The Chairman or other presiding officer shall introduce the case as advertised on the agenda, including but not limited to, the nature of the request, name of the applicant, address or general location and other pertinent items.
- RULE 4. The Chairman or other presiding officer shall request whether any member wishes to declare a conflict of interest or an ex parte contact regarding the request. An ex parte contact shall include any contact with the applicant where fact or the merits of the case were addressed. Members shall respond as appropriate and a ruling on the potential conflict shall be made in accordance with these rules.
- RULE 5. The Chairman or other presiding officer shall either request a staff report or request that if any member of the Commission or the public wish for an oral staff report. In the event no member of the Commission or the public so request, the Chairman or presiding officer may dispense with the presentation of the staff report.
- RULE 6. Following the presentation of the staff report or the decision to dispense with the presentation of the staff report, the Chairman or the presiding officer shall request questions of staff by the Commission. Questions posed by members of the Commission shall be limited to verification of factual information contained within the staff report or other written evidence.
- RULE 7. The Chairman or other presiding officer shall open the public hearing by requesting testimony by the applicant. Following testimony by the applicant the Chairman or other presiding officer shall request testimony from any other person in attendance.
- RULE 8. The Chairman or other presiding officer shall request questions of those providing testimony by members of the Commission. Questions posed by members of the Commission shall be limited to verification of factual information contained within the staff report, other written evidence, oral testimony, or to seek additional relevant facts not set out in the report or prior testimony.
- RULE 9. In the event that oral testimony in opposition to the request is provided, the Chairman or other presiding officer shall provide the applicant an opportunity to

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rebut opposing testimony.

RULE 10. After all evidence has been presented, the Chairman or other presiding officer may ask the parties if there is additional relevant information that has not been presented that would make a continuance in order. The Chairman or other presiding officer will entertain objections and rule on the admissibility of the evidence or exhibit.

RULE 11. Unless the Chairman or other presiding officer continues the public hearing to the next regularly scheduled quasi-judicial meeting of the Hearing Body or to a publicly stated date, time, and location, the Presider shall close the period for public discussion. The Hearing Body shall publicly discuss the case without further general input from the public.

RULE 12. Members of the Hearing Body, however, may seek clarification or ask questions of persons previously sworn in on any piece of evidence presented. Cross-examination and rebuttals may be made only on new evidence presented. The hearing shall be closed after Hearing Body deliberations are complete.

RULE 13. Unless the hearing has been continued, the Hearing Body shall render a decision on the matter, or, if at the said hearing, the Planning Commission determines that it needs additional information, it may recess said hearing for a period of not more than 30 days, during which time it shall procure or receive such additional information; provided, however, that before it so recesses, it must then and there announce the time and place at which the hearing will be resumed. (Chapter 18.55.050(f) KGBC)

RULE 14. Any motion to approve an application that does not receive the required majority effectively means the application has been denied. Even if an application is effectively denied, however, the better practice is to approve a formal motion denying an application and then make findings of fact and conclusions to support that decision. A motion to deny an application that fails does not mean that an application has been effectively approved. An application can only be approved on an affirmative vote.

RULE 15. The Hearing Body may attach conditions to the approval of any conditional use permit application as provided in Chapter 18.55.050(c) KGBC.

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RULE 16. Following rebuttal, The Chairman or other presiding officer shall close the hearing and commence deliberation on the request.

RULE 17. The date of distribution of a decision is the date the Planning Clerk places a copy of the decision in the mail, or otherwise delivers a copy of the decision if it is delivered personally or by fax or e-mail, to the applicant and any other parties.

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