

# RULES OF PROCEDURE

## TOWN OF GARNER PLANNING COMMISSION

### **Part One. Applicability and Purpose**

#### **Rule 1. Applicability of Rules**

- A. These rules apply to all meetings of the Town of Garner Planning Commission, also referred to as “Planning Board” or “Commission”.
- B. The Commission shall serve as an advisory body to the Town Council on planning, zoning, community appearance, and related development issues. The specific duties of Commission are set forth in Section 3.3.4. of the UDO ([Review Bodies \(garnernc.gov\)](#)).
- C. All meetings shall be conducted in accordance with the applicable provisions of North Carolina Open Meetings Act ([Article 33C.pdf \(ncleg.gov\)](#)), G.S. Chapter 143 Article 33C, the North Carolina Local Planning and Development Regulation Act, G.S. Chapter 160D (<https://ncleg.gov/Laws/GeneralStatuteSections/Chapter160D>) and the Town of Garner Unified Development Ordinance (UDO) (<https://www.garnernc.gov/departments/planning/development-resources-permitting-information/unified-development-ordinance-udo>).

### **Part Two. Quorum and Attendance**

#### **Rule 2. Quorum**

- A. No action shall be taken without a quorum present except to recess (or continue) a meeting to a subsequent date or to adjourn. The presence of a quorum is necessary for the Commission to conduct business.
- B. A member who withdraws from a meeting of the Commission without being excused by majority vote of the remaining members present shall be counted as present for quorum purposes.
- C. A quorum consists of a majority of the Commission’s actual membership excluding vacant seats.
- D. A member who is unable to attend a regular meeting of the Commission must contact the Chair or Planning Department as soon as practical before the meeting.
- E. If a member misses more than three consecutive meetings or more than 30 percent of the meetings in any 12-month period, without being excused by the Commission, the Chair shall notify the Town Council of the attendance record of the member.
- F. Members may be removed by the Town Council pursuant to Section 3.3.2. of the UDO ([Review Bodies \(garnernc.gov\)](#)).

### **Part III. Open Meetings**

#### **Rule 3. Electronic Meetings**

- A. *Virtual Participation.* A member who is not physically present may participate in a meeting of the Commission by electronic means, including participating in deliberations, making motions, and voting, if approved by the remaining members of the Commission. Any member intending to participate remotely shall inform the Chair or Planning Department as soon as practical before the meeting. Except in a local emergency, a

quorum of the Commission shall be physically present and the presiding officer shall be present.

- B. *Remote Meetings During a State of Emergency.* During any state of emergency declared by the Governor or General Assembly pursuant to G.S. 166A-19.20 ([https://ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_166A/GS\\_166A-19.20.pdf](https://ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_166A/GS_166A-19.20.pdf)), a meeting of the Commission shall comply with the requirements of G.S. 166A-19.24 ([https://ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_166A/GS\\_166A-19.24.pdf](https://ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_166A/GS_166A-19.24.pdf)), unless the Town Council prohibits the Commission from meeting.

#### **Rule 4. Meetings to Be Open to the Public**

- A. All meetings of the Commission shall be open to the public so they may attend and obtain information regarding items on the Commission's agenda.
- B. *Conduct of the Meeting.* To ensure full consideration of matters before the Commission, the meeting shall be conducted in the following order for each agenda item:
1. Staff presentation with questions from the Commission
  2. Presentation by applicant and their team.
  3. Presentation or comments by speakers in opposition to the request.
  4. Presentation or comments by other speakers in support of the request.
  5. Total time allotted to applicant, proponents, and opponents is 10 minutes each, including any time reserved for rebuttal.
  6. Questions from the Commission
  7. Comments/Voting by the Commission

Allotted time may be extended by the Chair unless a majority vote of the Commission objects to the time extension, provided the same amount of time extension is applied to the applicant, proponents, and opponents.

#### **Rule 5. Closed Sessions**

The Commission may enter a closed session from which the public is excluded on any of the grounds listed in G.S. 143-318.11(a) and subject to the procedures in G.S. 143-318.11 ([https://ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_143/GS\\_143-318.11.pdf](https://ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_143/GS_143-318.11.pdf)).

#### **Rule 6. Meeting Minutes**

- A. *Minutes Required for All Meetings.* Full and accurate minutes of the Commission proceedings shall be prepared and maintained by the Planning Department personnel and kept in the Department for public inspection and posted on the Town website.
- B. The official minutes shall record the important facts pertaining to each meeting, indicating the names of members present, absent, or excused, the precise wording of each motion, and the voting record for each item of business and all actions taken by the Commission, as well as the Commission's compliance with any applicable procedural requirements.

## **Rule 7. Broadcasting and Recording Meetings**

- A. *Right to Broadcast and Record.* Any person may photograph or record or otherwise reproduce any part of a Commission meeting that must take place in open session.
- B. *Advance Notice.* Any person, including member of the media, who plans to record or broadcast any portion of a Commission meeting shall so notify the Planning Director no less than 24 hours before the meeting. The failure to provide notice is not, by itself, grounds for preventing the recording or broadcasting of a Commission meeting.
- C. *Equipment Placement.* The Chair or an appropriate Town staff member may regulate the placement and use of camera or recording equipment in order to prevent undue interference with a Commission meeting.

## **Part IV. Organization of the Commission**

### **Rule 8. Organizational Meeting; Selection of Chair and Vice-Chair**

- A. Annually at the first regular meeting during the month of July or the next meeting thereafter, all newly appointed and reappointed members of the Commission shall take and subscribe the oath of office as the first order of new business.
- B. Subsequent to taking the oath, the Commission shall elect a Chair and Vice-Chair. The Chair and Vice-Chair may be reelected successive terms without limitation.
- C. Should the office of the Chair become vacant, the Vice-Chair shall automatically succeed to serve out the remaining term of the Chair. The Commission shall then select a successor to serve out the unexpired term of the Vice-Chair.
- D. Should the office of the Vice-Chair become vacant, the Commission shall select a successor from its membership for the remaining unexpired term of the Vice-Chair.
- E. The Planning Director or a member of the Planning Department shall provide administrative support for the Commission.

## **Part V. Types of Meetings**

### **Rule 9. Regular Meetings**

- A. *Regular Meeting Schedule.* Regular meetings of the Commission shall be on the second Monday of every month except as altered for the observance of legal holidays. All regular meetings shall begin at 7:00 p.m. in Garner Town Hall Council Chambers unless otherwise specified. A copy of the Commission's meeting schedule shall be filed with the Town Clerk. The Planning Department shall be responsible for providing adequate notice in compliance with the Open Meetings Act and with posting notice of the meeting schedule on the Town website.
- B. *Change to Regular Meeting Schedule.* The Commission may revise its regular-meeting schedule to change the time or place of a particular regular meeting or all regular meetings within a specified period. The Planning Department shall ensure that the revised regular meeting schedule is filed with the Town Clerk and posted on the Town website at least seven calendar days before the first meeting held pursuant to the revised schedule.

### **Rule 10. Special Meetings**

- A. *Calling Special Meetings.* The Chair or a majority of the members may call a special

meeting of the Commission.

- B. *Notice to the Public.* At least 48 hours before a special meeting, the Planning Department shall cause written notice of the meeting's date, time, place, and purpose to be: (1) posted on the door of the Town Council Chambers, (2) delivered, emailed, or mailed to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with Town Clerk or Planning Department, and (3) posted on the Town website.
- C. *Notice to Members.* Each Commission member shall be given prompt written notice of the date, time, place, and purpose by the Planning Department no less than 48 hours prior to the special meeting. This notice may be mailed, emailed, or delivered to the member.

#### **Rule 11. Emergency Meetings**

- A. *Calling Emergency Meetings.* The Chair may call an emergency meeting of the Commission, but only when necessary to address generally unexpected circumstances that demand the Commission's immediate attention.
- B. *Notice of Emergency Meetings.* Reasonable steps shall be taken by the Planning Department to notify Commission members and the public of an emergency meeting in accordance with notice provided for special meetings except that 48-hour prior notice shall not be required.
- C. *Transaction of Other Business Prohibited.* Only business connected with the emergency may be considered at an emergency meeting.

#### **Rule 12. Recessed and Cancelled Meetings**

- A. *Calling Recessed Meetings.* When conducting a properly called regular, special, or emergency meeting, the Commission may recess (or continue) the meeting to another date, time, or place by a procedural motion made and adopted in open session. The motion shall state the date, time, and place at which the meeting will resume.
- B. *Notice of Recessed Meetings.* The Planning Department shall post notice of the recessed meeting's date, time, and place on the Town website prior to the meeting. No further notice of a properly called recessed meeting is required.
- C. *Cancellation of Meetings.* Whenever there is no business to come before the Commission or it is unsafe to conduct a meeting due to inclement weather or other emergency, the Chair or Planning Director may cancel the meeting or alter the time or location of the meeting by giving notice to all Commission members and the public as soon as possible prior to the date and time set for the meeting.

### **Part VI. Agenda**

#### **Rule 13. Agenda**

- A. The Planning Department shall prepare an agenda of items to be considered for each meeting. The agenda packet shall include all necessary background information and draft orders, policies, regulations, or resolutions.
- B. A copy of the agenda shall be provided to each Commission member prior to the scheduled meeting so as to allow a reasonable amount of time for members to

adequately review all agenda information.

- C. The agenda shall be posted on the Town website and available for public inspection once it has been distributed to Commission members.
- D. *Adoption of the Agenda.* Prior to discussion of agenda items, the Commission shall review the agenda, make whatever revisions it deems appropriate, and adopt the agenda for the meeting.
- E. *Amending the Agenda.* The Commission may add or subtract agenda items by majority vote of the members present and voting, except when the Commission's consideration of new agenda items would violate state law or these rules.

#### **Rule 14. Acting by Reference to Agenda or Other Document**

The Commission shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document unless copies of the agenda or document are available for public inspection at the meeting and so worded that persons in attendance can understand what is being deliberated or acted upon.

#### **Rule 15. Agenda Items from Members of the Public**

If a member of the public wishes to request that the Commission include an item on its agenda, the individual shall submit the request in writing to the Planning Department which shall report the request to the Commission. The Commission is not obligated to place an item on the agenda merely because such a request has been received.

#### **Rule 16. Order of Business**

Items shall be placed on a regular-meeting agenda according to the order of business. The usual order of business for each regular meeting shall be as follows:

- adoption of the agenda,
- approval of the previous meeting minutes,
- old/new business,
- public comment (in accordance with Rule 15),
- reports of the Planning Department and Planning Commission.

The Chair may call agenda items in any order most convenient for the dispatch of business, subject to an objection made in the form of an appeal pursuant to Rule 25.

### **Part VII. Role of the Presiding Officer**

#### **Rule 17. The Chair**

- A. *Presiding Officer.* The Chair shall preside at meetings of the Commission.
- B. *Voting by the Chair.* The Chair has the same duty to vote as other members, though in no event may the chair break a tie on a motion on which he or she has already voted.
- C. *Recognition of Members.* A member must be recognized by the Chair (or other presiding officer) in order to address the Commission, but recognition is not necessary to appeal a procedural ruling.
- D. *Powers as Presiding Officer.* As presiding officer, the Chair is to enforce these rules and maintain order and decorum during Commission meetings. To that end, the Chair may
  1. rule on points of parliamentary procedure, to include ruling out of order any motion

- clearly offered for obstructive or dilatory purposes;
  - 2. determine whether a member or other speaker has gone beyond reasonable standards of courtesy in his or her remarks and entertain and rule on objections from other members on this ground;
  - 3. entertain and answer questions of parliamentary procedure;
  - 4. call a brief recess at any time; and
  - 5. adjourn in an emergency.
- E. *Appeals of Procedural Rulings.* A member may appeal a decision made or an answer given by the chair under subparagraph (d)(1), (2), or (3) of this rule in accordance with Rule 25.

**Rule 18. Presiding Officer in the Chair's Absence**

- A. If the Chair is absent, the Vice-Chair shall preside.
- B. If both the Chair and the Vice-Chair are absent, the Commission shall designate one of the members present to serve as temporary Chair pro tem. Any member who presides in place of the chair has the powers listed in Rule 17(d). Service as presiding officer does not relieve a member of the duty to vote on all questions except as excused from voting under Rule 29.

**Rule 19. When the Presiding Officer Is Active in Debate**

If the Chair or other presiding officer becomes active in the debate on a matter, he or she may designate another member to preside over the debate.

**Part VIII. Motions and Voting**

**Rule 20. Action by the Commission**

Except as otherwise provided in Rules 28, 30, and 33, the Commission shall act by motion. Any member, including the Chair or other presiding officer, may make a motion.

**Rule 21. Second Required**

A second is required on any motion.

**Rule 22. One Motion at a Time**

A member may make only one motion at a time.

**Rule 23. Withdrawal of Motion**

The member who introduces a motion may withdraw the motion unless the motion has been amended or put to a vote.

**Rule 24. Substantive (or Main) Motions**

A substantive motion is not in order when any other motion is pending. Once the Commission disposes of a substantive motion, it may not take up a motion that presents essentially the same issue at the same meeting unless it first adopts a motion to reconsider.

**Rule 25. Procedural Motions**

- A. Each procedural motion may be debated and amended and requires a majority of votes cast, a quorum being present, for adoption.
- B. *Priority of Motions.* When several procedural motions are pending, voting shall begin with the procedural motion highest in priority, except that a motion to amend or end debate on the highest-priority motion shall be voted on first.
- C. *Suspension of the Rules.* The Commission may, upon an affirmative 2/3 vote of its membership, suspend the rules of procedure for consideration of any matter before it, provided such action does not conflict with any applicable provisions of the UDO ([Review Bodies \(garnernc.gov\)](https://ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_160D/GS_160D-301.pdf)) or G.S. Chapter 160D ([https://ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_160D/GS\\_160D-301.pdf](https://ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_160D/GS_160D-301.pdf)) regarding the powers of the Commission.

### **Rule 26. Debate**

The presiding officer (or Town staff) shall re-state the motion and then open the floor to debate, presiding over the debate according to the following principles: (1) the member who made the motion is entitled to speak first, and (2) a member who has not spoken on the issue shall be recognized before a member who has already spoken on the motion.

### **Rule 27. Adoption by Majority Vote**

- A. A motion is adopted if supported by a simple majority of the votes cast, a quorum being present, except when a larger majority is required by these rules or state law.
- B. Each member shall be entitled to cast one vote on each motion.
- C. Voting shall be by voice, show of hands, or roll call, at the discretion of the Chair.

### **Rule 28. Changing a Vote**

A member may change the member's vote on a motion at any time before the presiding officer announces whether the motion has passed or failed. Once the presiding officer announces the result, a member may not change a vote without the unanimous consent of the remaining members present. A member's request for unanimous consent to change a vote is not in order unless made immediately following the presiding officer's announcement of the result.

### **Rule 29. Duty to Vote**

- A. Every member shall vote unless excused (recused) by the remaining members of the Commission.
- B. A member who wishes to be excused (recused) from voting shall so inform the presiding officer, who shall take a vote of the remaining members on whether to grant the request.
- C. The Commission may not excuse (recuse) a member except in cases involving (1) a conflict of interest as defined by G.S. 160D-109 ([https://ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_160D/GS\\_160D-109.pdf](https://ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_160D/GS_160D-109.pdf)), other applicable law, or by the Town Council or (2) the member's official conduct or own financial interest.
- D. The unexcused failure to vote by a member who is physically present in the meeting room, or who has withdrawn without being excused by majority vote of the remaining

members present, shall be recorded as an affirmative vote.

### **Rule 30. Voting by Written Ballot**

The Commission may decide by majority vote or unanimous consent to vote on a motion by written ballot. Each member shall sign his or her ballot (secret ballots are prohibited), and the minutes shall record how each member voted by name. The ballots shall be made available for public inspection in the Planning Department immediately following the meeting at which the vote took place and remain there until the minutes of that meeting are approved, at which time the ballots may be destroyed.

## **Part IX. Public Comment**

### **Rule 31. Public Comment**

- A. The Commission may not hold public hearings unless directed by the Town Council.
- B. The Commission may receive public comment on any agenda item or other item within the authority of the Commission at the discretion of the Chair.
- C. The Chair's decision not to allow public comment or to limit the amount of time allowed for public comment may be appealed and voted on by the members present.

## **Part X. Committees and Appointments**

### **Rule 32. Committees**

- A. *Authority to Establish.* The Chair may establish standing or temporary committees to help the Commission carry out its work.
- B. *Open Meetings Law.* The requirements of the open meetings law apply whenever a majority of a committee's members gather in person or simultaneously by electronic means to discuss or otherwise conduct committee business.

### **Rule 33. Appointments to Public Bodies**

- A. *Committee Appointments.* The Chair shall appoint Commission members to committees established under Rule 32. When a committee is to include non-Commission members, the Commission shall appoint such persons in open session using the procedures described in subsection B or C.
- B. *Appointment by Unanimous Consent.* When there is only one nominee, the Chair may ask the Commission to approve the nominee's appointment by unanimous consent.
- C. *Nomination and Voting Procedure.* The Chair shall open the floor for nominations, whereupon Commission members may put forward and debate nominees. When debate ends, the Chair shall call the roll of the members, and each member shall cast a vote for the member's preferred nominee. Voting shall continue until a nominee receives a majority of votes cast during a single balloting.

## **Part XI. Miscellaneous**

### **Rule 34. Amendment of the Rules**

- A. The Rules may be amended by a 2/3 vote at any regular meeting or at any properly called special meeting for which amendment of the rules is one of the meeting's stated purposes and provided that the proposed amendments have been distributed to all



Commission members with the agenda packet in advance of the meeting and provided that the proposed amendments do not violate any relevant statutes or generally accepted principles of parliamentary procedure.

- B. Modifications to proposed amendments may not be adopted at the same meeting at which they are introduced.

**Rule 35. Reference to *Suggested Procedural Rules for Local Appointed Boards***

The Commission shall refer to *Suggested Procedural Rules for Local Appointed Boards* published by the UNC School of Government in 2020 for guidance when confronted with a procedural issue not covered by these rules or state law. Having consulted the *Suggested Rules*, the presiding officer shall make a ruling on the issue subject to appeal under Rule 25.

**Rule 36. Special Rules of Procedure**

The Commission may adopt its own special rules of procedure, to be specified here.

*Adopted the 13th day of March 2023.*