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The Planning Commission in Pennsylvania

PLANNING SERIES #2



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Preparation of this publication was financed from appropriations of the General Assembly of the Commonwealth of Pennsylvania. Technical Assistance from Michael Baker Jr., Inc. and The Law Firm of Susan J. Smith was used in the preparation of this publication.

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I. The Planning Commission in Pennsylvania

Preface

The *Planning Commission in Pennsylvania (Planning Series Publication #2)* is one of a series of 10 planning publications produced by the Governor's Center for Local Government Services (Center) as a means to educate both professionals and non-professionals on the ways that planning and land use management is achieved within the commonwealth. The planning publications were first developed in the 1970s and in subsequent editions have been revised to incorporate differences in the overall planning viewpoint, offer up-to-date best practices, and reflect the latest changes in Pennsylvania planning law. Each publication addresses a specific planning or land use method enabled through The Pennsylvania Municipalities Planning Code (MPC), Act 247 of 1968, P.L. 805, as reenacted and amended, 53 P.S. § 10101, et seq., and used by municipalities throughout the commonwealth.

The Center's 10 Planning Series Publications are as follows:

- No. 1 – Local Land Use Controls in Pennsylvania
- **No. 2 – The Planning Commission**
- No. 3 – The Comprehensive Plan
- No. 4 – Zoning
- No. 5 – Technical Information on Floodplain Management
- No. 6 – The Zoning Hearing Board
- No. 7 – Special Exceptions, Conditional Uses and Variances
- No. 8 – Subdivision and Land Development in Pennsylvania
- No. 9 – The Zoning Officer
- No. 10 – Reducing Land Use Barriers to Affordable Housing

This publication specifically addresses the planning commission form of a planning agency authorized by the MPC. To that end, this publication is designed and intended for the following purposes:

- To address the statutory authority and composition of the planning commission in Pennsylvania and the specific powers and duties of the planning commission;
- To specify the reasons for and roles of the planning commission in municipal land use decisions;
- To guide municipal planning commission members on their specific roles and responsibilities as authorized by the MPC and as may be further stipulated in a planning commission's bylaws, rules, and regulations governing its procedures consistent with the ordinances of the municipality and the laws of the commonwealth;
- To review the common roles of planning commission members, particularly in terms of hiring planning consultants to assist with various technical planning activities; and
- To provide supporting technical guidance through a series of appendices that include a model ordinance and procedures for the establishment of a planning commission, model bylaws, and the adoption of a community's comprehensive plan.

II. Introduction

Communities throughout the commonwealth are faced with many challenges that require the insight, intuitiveness and energy of its local residents, some of whom are appointed by their governing body to serve on their municipal planning commission. These “citizen planners” are tasked with developing plans and implementation policies that provide the foundation for the community to manage changes caused by a variety of internal and external forces including community growth or decline, and changes in demographics, economies, technology, natural resources, the environment, housing, transportation, etc.

As its name implies, a planning commission’s primary activity is planning, which according to the American Planning Association, “is a dynamic discipline that works to improve the welfare of people and their communities by creating more convenient, equitable, healthful, efficient, and attractive places for present and future generations. Planning enables civic leaders, businesses, and citizens to play a meaningful role in creating communities that enrich people’s lives. Good planning helps create communities that offer better choices for where and how people live. Planning helps communities to envision their future. It helps them find the right balance of new development and essential services, environmental protection, and innovative change.”¹

In Pennsylvania, planning commissions are primarily responsible for and charged with exercising a municipality’s legal right to develop a comprehensive plan that outlines its specific community planning objectives that may focus on environmental protection; agricultural, historical, and cultural resource preservation; business retention, expansion, and recruitment; urban redevelopment; housing opportunities; parks and recreation amenities; transportation and utility infrastructure; or other health, safety, and public welfare needs and issues that are critical to community’s overall well-being and prosperity.

As such, planning commissions are on the front line regarding the issues that matter most to many communities. Their leadership is crucial in developing recommendations for implementing change as well as promoting responsible and sustainable community planning practices that have not only local implications, but multimunicipal and regional implications as well.

The most recent data available tell us that more than 60 percent of the municipalities in the commonwealth have planning commissions. In fact, there are more municipal planning commissions than water and sewer authorities or police departments in the commonwealth.

References

1. *What is Planning?* American Planning Association. Retrieved April 9, 2014 from <https://www.planning.org/aboutplanning/whatisplanning.htm>

III. Statutory Authority for Planning

The responsibility for planning in Pennsylvania has been delegated to each local municipality and county. The Pennsylvania Municipalities Planning Code (MPC), Act 247 of 1968, P.L. 805, as reenacted and amended, 53 P.S. § 10101, et seq., is the legislation that conveys planning authority and sets the ground rules that a municipality must follow.

Specifically, Article II, Section 201 of the MPC provides the municipal governing body with the legal authority to establish, by ordinance, a planning agency. A governing body has several choices when it decides to create a planning agency within its municipality. It can create a planning commission, planning department or both; or, instead of a commission or department, the governing body may create a planning committee composed solely of members of the governing body. Since many municipalities opt to establish a planning commission, this publication specifically addresses the planning commission form of organization.

In Pennsylvania, the Municipalities Planning Code is the uniform planning and land use enabling law for all municipalities and counties, including those under home rule, but not for the cities of Philadelphia (consolidated with Philadelphia County) and Pittsburgh.¹

The MPC requires that the planning commission be created by ordinance enacted by the governing body and requires that it be abolished in the same manner. A model ordinance for the creation of a planning commission can be found in Appendix II: Model Ordinance for Creating a Planning Commission.

A planning commission acts as an advisor to the governing body. Its principal role is stipulated in Section 209.1 of the MPC: A planning commission is required – at the request of the governing body – to prepare a comprehensive plan for the long-term growth, development, and well-being of the municipality. (For more information on comprehensive plans, please see *Planning Series #3 The Comprehensive Plan in Pennsylvania*.) Under Section 209.1 of the MPC, a planning commission is also empowered to:

1. Make recommendations to the governing body concerning the adoption or amendment of an official map.
2. Prepare and present to the governing body a zoning ordinance, and make recommendations to the governing body on proposed amendments to it.
3. Prepare, recommend, and administer subdivision and land development and planned residential development regulations.
4. Prepare and present to the governing body a building code and a housing code and make recommendations concerning proposed amendments thereto. *Refer to The Planning Commission and Building Code Enforcement section below.*
5. Do such other acts or make studies as may be necessary to fulfill the duties and obligations imposed by the MPC.
6. Prepare and present to the governing body an environmental study.
7. Submit to the governing body a recommended capital improvements program.
8. Prepare and present to the governing body a water survey, which shall be consistent with the State Water Plan and any applicable water resources plan adopted by a river basin commission. The water survey shall be conducted in consultation with any public water supplier in the area to be surveyed.
9. Promote public interest in, and understanding of, the comprehensive plan and planning.
10. Make recommendations to governmental, civic, and private agencies and individuals as to the effectiveness of the proposals of such agencies and individuals.
11. Hold public hearings and meetings.
12. Present testimony before any board.
13. Require from other departments and agencies of the municipality such available information as relates to the work of the planning agency.
14. In the performance of its functions, enter upon any land to make examination and land surveys with the consent of the owner.

15. Prepare and present to the governing body a study regarding the feasibility and practicability of using renewable energy sources in specific areas within the municipality.
16. Review the zoning ordinance, subdivision and land development ordinance, official map, provisions for planned residential development, and such other ordinances and regulations governing the development of land no less frequently than it reviews the comprehensive plan.

In addition to the duties and responsibilities authorized by Section 209.1 of the MPC, a governing body may by ordinance delegate approval authority to a planning commission for subdivision and land development applications. Generally, larger municipalities or counties delegate this approval authority to a planning commission or department and many such municipalities and counties are large enough to have full-time professional staff.

Also, in instances in which a municipality has enacted an impact fee ordinance pursuant to Article V-A of the MPC, the planning commission may also be appointed by the governing body as the impact fee advisory committee. However, such an appointment requires the planning commission's membership to include no less than 40% representation from the real estate, commercial and residential development, and building industries. Individuals representing these industries must reside in the municipality or conduct business within the municipality to serve as *ad hoc* voting members of the planning commission whenever the planning commission functions in this capacity.

Administrative and technical services provided by outside entities (both public and private) may be employed by the governing body to carry out any of these duties and responsibilities. Also, the planning commission can accept and utilize funds, personnel, and other services made available to it with the consent of the governing body. Such resources may be obtained through public and private grants, staffing assistance from county or regional planning agencies, or from professional consultants. The governing body can enter into agreements or contracts for the acceptance and utilization of any such funds or assistance.

The MPC gives specific authorization for municipal governing bodies to engage in intergovernmental cooperation and collaborative planning initiatives. Specifically these authorized powers can be utilized to enact planning implementation agreements. Such agreements must be made in conformance with the requirements of the Intergovernmental Cooperation Act of 1996, 53 Pa. C. S. § 2301, et seq.

In light of the MPC powers bestowed to a planning commission, the planning commission's fundamental role is to proactively exercise its authority to develop a comprehensive plan that identifies specific strategies through which the municipality can achieve its community development goals and objectives. As such, planning commissioners are on the front line regarding the issues that matter most to many communities, and they play a vital role in ensuring that all fundamental aspects of the community's growth and development are considered and coordinated. Their leadership is crucial in developing sound policy recommendations for implementing positive change to help their communities to prosper and increase the health, safety, and welfare of their fellow residents.

Through an effective comprehensive planning and implementation process, planning commissions play a crucial role in identifying, analyzing, and balancing environmental, economic, and human resources and interests. All of these resources are important to the welfare of our communities, and in combination these interests represent the very fiber of our democratic process and our quality of life. Through careful planning and implementation, planning commissions can assist their governing bodies with determining how to best balance the guaranteed property rights of land owners with those of the general public.

Appendix I: Additional Readings and Resources for Planning Commissioners provide a few resources to help members of a planning commission with their "on-the-job" training.

References

1. Article XV, Section 1 of the Pennsylvania Constitution of 1874, the First Class City Home Rule Act, Act of April 21, 1949, as amended by the Act of June 1, 1995, 53 P.S. §§ 13101 et seq., and the home rule charter adopted under those enabling authorities are the source of authority for Philadelphia's municipal planning and land use regulation. The Second Class City Zoning Law, Act of March 31, 1927, 53 §§ 25051 et seq., the Home Rule Charter and Optional Plans Law, and the home rule charter adopted under those enabling authorities is the source of authority for Pittsburgh's municipal planning and land use regulation.

IV. Examples of Specific Planning Commission Responsibilities

In support of the its fundamental comprehensive planning role, the planning commission is tasked with carrying out a number of supporting technical responsibilities as specified under Section 209.1 of the MPC, as well as other Pennsylvania planning legislation such as The Pennsylvania Sewage Facilities Act, Act 537 of 1965, 35 P.S. § 750.1, et seq. (Act 537), and Pennsylvania’s Storm Water Management Act, Act 167 of 1978, 32 P.S. § 680.1, et seq. The following provides a summary of these technical responsibilities. Additional information on these topics is provided within Appendix I: Additional Readings and Resources for Planning Commissioners.

The Planning Commission and Subdivision and Land Development Review

While providing the leadership for planning and land use decisions is the first priority of the planning commission, in practice the planning commission's time is largely devoted to reviewing applications submitted pursuant to the municipality’s zoning and subdivision and land development ordinances and providing recommendations for their approval to the governing body. This technical function of the planning commission can consume so much of the planning commission’s time and attention that other responsibilities – such as updating the comprehensive plan– get neglected. While the review of subdivision and land development plans is important, members should also promote implementation of other aspects of the comprehensive plan and give attention to the future well-being of the community.

For further information on the technical process of reviewing subdivision and land development plans please see *Planning Series #8: Subdivision and Land Development in Pennsylvania*.

The Planning Commission and Stormwater Management Planning

Act 167, Pennsylvania’s Storm Water Management Act, was enacted in response to the impacts of accelerated stormwater runoff associated with land development in the state. Act 167 requires counties to prepare and adopt watershed-based stormwater management plans. Once the County 167 plan is approved by the Pennsylvania Department of Environmental Protection and adopted by the municipality, Act 167 requires municipalities within the area covered by the Act 167 plan to adopt and implement ordinances to regulate development consistent with the plan. Since stormwater management pertains to land development, many municipalities have chosen to enact stormwater management plan requirements through their subdivision and land development ordinance regulations or through a special purpose stormwater management ordinance. As such, the planning commission is often tasked with developing the stormwater management regulations that are typically incorporated into a county or municipal subdivision and land development ordinance, wherein the required stormwater management plan for the development project is reviewed and approved concurrently with the associated land development plan submission and approval process as discussed in *Planning Series #8: Subdivision and Land Development in Pennsylvania*.

The Planning Commission and Floodplain Management

According to the Federal Emergency Management Agency (FEMA), “floodplain management is the operation of a community program of corrective and preventative measures for reducing flood damage. These measures take a variety of forms and generally include requirements for zoning, subdivision or building, and special-purpose floodplain ordinances.”¹ Any community wishing to make flood insurance available to its property owners must agree to adopt and enforce a floodplain management ordinance consistent with National Flood Insurance Program (NFIP) policies and standards (which includes, among other authorizing legislation, the Flood Disaster Protection Act of 1973, as amended, Public Law 93-234, approved December 31, 1973) and Pennsylvania’s Flood Plain Management Act, Act 166 of 1978, 32 § P.S. 679.1091, et seq. Currently, 2,466 of Pennsylvania’s municipalities participate in the NFIP program.

Considering the planning commission’s lead role with preparing and presenting to the governing body the municipal comprehensive plan, zoning ordinance, and subdivision and land development ordinance, its responsibilities related to floodplain management are quite extensive. Although a more detailed discussion on floodplain management is provided in the *Planning Series #5: Technical Information on Floodplain Management*, the following discussion provides a summary of the MPC’s provisions related to floodplain management.

Planning – Comprehensive Plan

The planning for floodplain management begins with the comprehensive plan. Section 301(a) (2) of the MPC specifies that a plan for land use may include provisions for floodplains and other areas of special hazards and other similar uses.

Section 301(a) (4) of the MPC allows municipalities to plan for community facilities and utilities, which may include storm drainage and floodplain management.

Section 301(a) (6) of the MPC authorizes a plan for the protection of natural and historic resources to the extent not preempted by federal or state law. This clause includes, but is not limited to, wetlands and aquifer recharge zones and floodplains.

Preservation of Floodplain Areas – Official Map

Article IV of the MPC authorizes the governing body to adopt an official map of all or a portion of the municipality which may show appropriate elements or portions of elements of the comprehensive plan adopted pursuant to Section 302 of the MPC with regard to public lands and facilities, and which may include, among other features, flood control basins, floodways and flood plains, storm water management areas, and drainage easements. An official map's essential purpose is to preserve and provide for land and facilities for future public acquisition or dedication as envisioned through the municipality's comprehensive plan. More information regarding the official map and its use is discussed in *Planning Series #1: Local Land Use Controls in Pennsylvania*.

Floodplain Regulation – Subdivision and Land Development

Section 503 of the MPC specifies that the contents of a subdivision and land development ordinance may contain provisions for insuring that, among other requirements, land which is subject to flooding either shall (i) be made safe for the purpose for which such land is proposed to be used or (ii) shall be set aside for uses which shall not endanger life or property or further aggravate or increase the existing menace.

Floodplain Regulation – Zoning

Section 604 of the MPC specifies that the provisions of zoning ordinances shall be designed to promote, protect and facilitate among other aspects public health and safety that includes the preservation of floodplains.

Section 605 of the MPC specifies that in any municipality, other than a county, which enacts a zoning ordinance, no part of such municipality shall be left unzoned and use classifications may be made within any district such as floodplains and other places having a special character or use affecting and affected by their surroundings.

The Planning Commission and Sewage Facilities Planning

The Pennsylvania Sewage Facilities Act, Act 537 of 1965, 35 P.S. § 750.1, et seq. (Act 537) requires that a planning commission review the municipality's proposed official sewage facilities plan. The purpose of the planning commission's review of the municipality's official sewage facilities plan is to ensure that sewage facilities planning is consistent with comprehensive planning for the municipality under the MPC. Act 537 requires that official sewage plans provide for the orderly extension of community interceptor sewers in a manner consistent with the comprehensive plan developed under the MPC. Official sewage facilities plans are to take into consideration aspects of planning, zoning, population estimates, engineering, and economics to project sewer service areas 10 years into the future. It is critical that these official sewage facilities plans consider and are consistent with the municipal comprehensive plan, land use planning, and zoning. The planning commission's review and comment on sewage facilities plans plays an important part in assuring this consistency. When sewage facility planning and land use planning efforts are consistent, adequate sewage facilities can be implemented to serve both existing development needs and provide for planned growth.

Sewage facilities regulations were expanded to address natural resource and environmental protection issues, such as protection of wetlands, rare, endangered or threatened species, prime agricultural land, archaeological or historical preservation, and water resources planning. Planning commissions study these matters when undertaking the

comprehensive planning process prescribed by the MPC. Pennsylvania's Department of Environmental Protection (DEP) wants to hear the views of the planning commission regarding the proposed sewage facilities and consistency of those facilities with the goals and objectives of plans developed under MPC guidelines, including local land use ordinances comprehensive plans.

Act 537 also requires the governing body to consider the comments of the planning commission prior to adoption of a planning module as a revision to a municipality's official sewage facilities plan and subsequent submittal to DEP. If inconsistencies with the comprehensive plan, land use planning, or zoning have been identified by the planning commission, the governing body may refuse to accept the planning module as complete until these inconsistencies are resolved.

The Planning Commission and Public Meetings

The MPC provides that, at the request of the governing body, a planning commission may present testimony before any board. This would include testimony before a zoning hearing board conducting a public hearing when considering a request for a variance or special exception or a governing body conducting a hearing on a conditional use application. Section 603(c)(2) of the MPC requires that a planning commission, when considering conditional use applications, make recommendations based on express standards and criteria for the conditional use as provided for in the zoning ordinance. A planning commission should never miss the opportunity to review and comment on these matters when it has relevant information to contribute.

The Planning Commission and Multimunicipal Relationships

Although each community is unique in its physical and social composition, community planning needs and issues often transcends municipal boundaries. Therefore, it makes logical sense for planning commissions to forge multimunicipal relationships with their neighboring counterparts to discuss common issues and identify solutions that benefit the region as a whole.

Planning commission (and municipal officials in general) can approach matters on a regional basis two different ways: informally or formally. Informal arrangements can be made at any time to address almost any issue. Formal cooperative arrangements can be made by intergovernmental agreements that are more permanent and binding. Examples of these are as follows:

- **Informal – Peer-to-Peer Planning Commission Meetings/Work Sessions** – Planning commissions from neighboring municipalities, within a region, etc., may meet on an ad-hoc basis to discuss issues of concern and use the discussions to make informed policy recommendations or decisions. In such instances, the planning commission members must be cognizant of the Sunshine Act and hold their meeting accordingly.

An example of a formal partnership for a multimunicipal comprehensive plan is the Pottstown Metropolitan Regional Planning Committee (PMRPC), which is comprised of two representatives from each of the eight participating municipalities in the region. The PMRPC members address multi-municipal issues such as agricultural and open space preservation, natural and historic resources, transportation, housing, economic development, administration, and interpretation of the Pottstown Metropolitan Regional Comprehensive Plan on matters relating to zoning, land use, and public infrastructure and services. More information regarding the PMRPC is available at <http://pmrpc.pottstownmetroregion.com/about/regional-planning-committee>.

- **Formal – Statutory Consultations** – The MPC requires municipalities to consult with each other when undertaking certain actions:
 - Section 301(a)(5) requires a comprehensive plan to include a statement addressing compatibility with existing and proposed development in neighboring municipalities, plus consistency with the county comprehensive plan.

- Section 408(c) requires a municipality to forward a proposed official map ordinance or amendment to the adjacent municipality where it proposes reservations for future streets or public lands leading into the adjacent municipality.
- The MPC requires a municipality to forward proposed ordinances or amendments for subdivision and land development, zoning, and official map to the county planning agency for review and comment prior to enactment.
- **Formal – Joint, Multimunicipal, or Regional Planning Commissions** – Two or more municipalities may join together to form a planning commission covering and serving their entire area. Authority for this is provided by the Pennsylvania Intergovernmental Cooperation Law. A joint planning commission must be formed by intergovernmental agreement enacted by ordinance. The agreement must specify the structure of the joint commission, the powers delegated to it, and how it will be financed. A joint commission may exist in lieu of or in addition to individual municipal planning commissions. A county may participate in a joint planning commission. (Pennsylvania also has a lesser-known Regional Planning Law – 53 P.S. §§ 2341-2348 – that provides authority for creation of a regional planning commission by two or more municipalities.) Municipalities should obtain legal guidance from their solicitors when considering formation of a joint or regional planning commission.
- **Formal – Multimunicipal Comprehensive Plan** – Article XI of the MPC authorizes municipalities (including counties) to enter into intergovernmental cooperative agreements for the purpose of developing, adopting, and implementing a multimunicipal comprehensive plan. An agreement must establish a process to ensure each municipality acts cooperatively and consistent with the plan in implementing it. Implementation agreements can accomplish this by creating multimunicipal planning commissions as previously described, or by creating processes whereby municipalities consult with each other prior to taking certain actions implementing the plan. (For more information on multimunicipal comprehensive plans please see *Planning Series #3 The Comprehensive Plan in Pennsylvania*.)
- **Formal – Joint Municipal Zoning Ordinance** – Article VIII-A of the MPC authorizes two or more municipalities to enact a single joint municipal zoning ordinance covering all the participating municipalities. (For more information please see *Planning Series #4 Zoning*.)
- **Formal – Intergovernmental Cooperation Agreements** – Because of the broad scope of the Pennsylvania Intergovernmental Cooperation Law, two or more municipalities can work cooperatively by agreement on a variety of things such as hiring professional planning staff (where municipalities can't afford staff on their own), creating a web portal for development and zoning permits, engaging the county planning agency to perform technical reviews of development plans for the municipality, and other creative possibilities.

References

1. *Floodplain Management*. FEMA. Retrieved April 14, 2014 from <http://www.fema.gov/floodplain-management#1>

V. The Planning Commission and Building Code Enforcement

Although one of the planning commission's specific duties under Section 209 of the MPC is to "prepare and present to the governing body of the municipality a building code and a housing code and make recommendations concerning proposed amendments thereto," the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. §§7210.101- 7210.1103, established the Uniform Construction Code (UCC) for the entire commonwealth. Its enforcement by the Pennsylvania Department of Labor and Industry commenced in April 2004. This new comprehensive building code established minimum regulations for most new construction and additions and renovations to existing structures within the commonwealth. As such, the responsibility of a planning commission in building code regulation has largely been diminished. Nonetheless, planning commission members should familiarize themselves with the building code regulations and be educated about how the UCC affects the general goals of community development.

For example a strong housing or community development section of a comprehensive plan should take into account the enforcement of the UCC and ways in which building code enforcement carries out the community's stated goals and objectives. Likewise, an enhanced historic preservation element of a comprehensive plan ought to simulate careful review of provisions of a zoning ordinance related to historic preservation. If a Historic Architectural Review Board (HARB) exists, recommendations can be made regarding the historic code.

Since April 2004, "over 90% of Pennsylvania's 2,562 [sic]¹ municipalities have elected to administer and enforce the UCC locally using their own employees or via certified third-party agencies (private code enforcement agencies) that they have retained. In these municipalities, the Department of Labor and Industry (L&I) has no code enforcement authority, except where the municipality lacks the services of a person certified as an "Accessibility Inspector/Plans Examiner." If a municipality has "opted out," L&I is responsible for all commercial code enforcement in that municipality. L&I also has sole jurisdiction for all elevators and all state-owned buildings, no matter where they are located. Certified third-party agencies hired by property owners (or their contractors) enforce the residential requirements of the UCC in all opt-out municipalities."²

References

1. The current number of municipalities is 2,561.
2. Uniform Construction Code. Pennsylvania Department of Labor and Industry. Retrieved March 18,2014 from http://www.portal.state.pa.us/portal/server.pt/community/uniform_construction_code/10524

VI. Membership, Appointment, and Organization

As stipulated under Sections 202 and 203 of the MPC, planning commissions are to be comprised of three to nine members who must be residents of the municipality. Legal residence is best determined by where a person lives; it not only includes a person's intention to live somewhere, but also a physical presence. Under Section 903(b) of the MPC, no individual may sit on both the planning commission and the municipal zoning hearing board.

Members of the planning commission are appointed by the municipality's appointing authority, subject to the approval of the governing body (except where both are the same). An appointing authority is the mayor in cities, the board of commissioners in counties, the council in incorporated towns and boroughs, the board of commissioners in townships of the first class, the board of supervisors in townships of the second class, or as may be designated in the law providing for the form of government or in the charter for home rule municipalities.

The governing body that appoints the planning commission must ensure the diversity of experience, expertise, and interests in the composition of the planning commission's membership. Members of various professions should be sought out for membership, and sitting members of the planning commission should endeavor to increase their own level of planning education during their time on the board. There are no formal requirements to serve on a planning commission. However, the governing body, when appointing members, should review potential appointees' qualifications carefully.

The planning commission itself, when faced with a vacancy, should review potential appointees' qualifications and make recommendations to the governing body.

The term of a planning commission member is four years. It is recommended that terms should expire December 31 of each four-year term. To avoid major changes at any one time, the terms of its members are staggered. Any vacancy occurring during a term of office is filled only for the unexpired portion of the term. The MPC does not provide for the appointment of alternate members to serve on a planning commission.

A planning commission must maintain a prescribed number of citizens as part of its complement. Only a certain number of planning commissioners can be officers or employees of the municipality. The ratios are as follows: on a planning commission of three members, at least two shall be citizen members; on a planning commission of four or five members, at least three shall be citizen members; on a planning commission of six or seven members, at least five shall be citizen members; and on a planning commission of either eight or nine members, at least six shall be citizen members.

It is possible for a member of a planning commission to be removed from office. Removal however, requires a majority vote of the governing body. Any such removal of a member must be based on just cause. The primary grounds for removal could be any of the following: malfeasance – committing an unlawful act in office; misfeasance – committing a lawful act in an unlawful manner in office; and nonfeasance – failure to perform the duties of the office.

A member of a planning commission that is threatened with removal must receive fifteen days' advance notice of the intent by the governing body to take the required vote. The member has a right to a hearing under the MPC, upon written request, and also under the Local Agency Law, 2 Pa. C. S. § 551.

The commonwealth has a long history of volunteer involvement in local government and the duties and responsibilities of the planning commission are carried out largely by citizens on a volunteer basis. However, the MPC allows for the governing body to provide compensation for planning commission members. If the governing body elects to do so, such compensation must be less than the amount authorized by statute and ordinance to be paid to the members of the governing body. In addition, the MPC allows the governing body to provide for reimbursement of the planning commission members for any necessary and reasonable expenses incurred in the performance of their duties.

If reimbursement expenses are not part of the annual budget approved by the governing body, approval should be obtained from the governing body prior to incurring the expense. Allowable expenses may include registration fees for planning conferences, seminars or workshops, reasonable cost of meals while in attendance, and mileage reimbursement to and from the training site.

VII. General Operating Procedures for Planning Commissions

Annually the planning commission elects its own chairman and vice-chairman and any other officers that it feels are necessary. Practical experience has shown that it is difficult for a member to serve as a recording secretary and also contribute meaningfully to matters under discussion. An officer serves an annual term and is permitted to succeed him or herself. A planning commission has the power to make, alter, rescind, and reinstate rules for its procedure, provided that they are consistent with the rules of the municipality and laws of the commonwealth. A planning commission may adopt bylaws. Appendix III: Suggested Bylaws for Planning Commissions contains model bylaws.

At the discretion of the governing body, a planning commission may be provided with legal counsel by the municipal solicitor or a solicitor appointed to the planning commission.

The MPC requires that a planning commission keep full public records and ensure that all records become property of the municipality.

The Municipal Records Act, part of omnibus Act 177 of 1996, amended by Act 27 of 1998, 53 Pa.C.S. § 1381, et seq., and the Pennsylvania Historical and Museum Commission's Municipal Records Retention Manual establish procedures and standards for records retention, including mandatory record retention and disposition schedules.

The Pennsylvania Right-to-Know Law, 65 P.S. § 67.101, et seq. (RTKL) applies to the records of a planning commission. Most requests will be submitted to the municipal open records officer for determination as to whether a responsive record is a "public record" and otherwise subject to a privilege or exception to disclosure. Unless an extension of time is warranted, the open records officer has five business days to respond to a request. In the event a request for a record is made to an individual member of the planning commission, the individual should immediately notify the municipal open records officer of the request.

Each planning commission member should be provided with a packet containing basic information. For example, the packet should certainly include a copy of the MPC, the municipality's comprehensive plan, zoning ordinance, and subdivision and land development ordinance. Copies of the municipality's official Act 537 sewage facilities plan, stormwater management ordinance, and other pertinent ordinances will also prove to be useful, and should be included in the informational packet.

VIII. Planning Commission's Relationship to the Governing and Appointed Bodies

Governing bodies are empowered under MPC Section 201 to create planning commissions to perform community planning activities and coordinate municipal planning programs. In doing so, a governing body specifies the planning commission's powers, duties, and functions that include the preparation of the municipal comprehensive plan.

As discussed in the *Comprehensive Planning Series Publication #3*, the comprehensive planning process should be inclusive of the governing body's interests and perspectives as the community's elected leaders. As such, the planning commission must ensure that the governing body, among other community stakeholders, is actively involved in the planning process. In doing so, the process establishes the foundation for the governing body to embrace and adopt the community's comprehensive plan. The adopted plan in turn serves as the basis from which the planning commission makes objective, unbiased recommendations on zoning, land development and other community planning matters to the governing body for its consideration in making informed policy decisions.

A collaborative comprehensive planning process not only forges an interdependent relationship between the governing body and planning commission, but involves the planning commission with many of the municipality's other appointed bodies that are responsible for various functions and services. Such appointed bodies typically include the zoning hearing board, HARB, parks and recreation boards, sewer and water authorities, environmental advisory councils, etc.

It is wise for the planning commission to keep a harmonious relationship with other municipal officials. It should meet and communicate on some regular basis with the governing body and various municipal groups. It should establish itself as a key member of the municipal "team" and as a provider of solutions not problems. And, it should quickly address any instance of conflict lest it festers into distrust or worse an adversarial relationship with the governing body or other municipal groups.

IX. Planning Commission Reports to the Governing Body

Section 207 of the MPC requires a planning commission to make an annual report to the governing body by March 1 each year. Among other topics, such reports may include a summary of the reviews performed by the planning commission in the prior year and identification of planning issues or concerns, including possible amendments to the planning ordinances that the planning commission seeks to bring to the attention of the governing board. Also, the MPC generally requires a planning commission to maintain records of its actions and to provide such records for the possession of the governing body.

X. Planning Commissions and the Need for Technical Planning Services

As previously discussed, planning commissions are primarily responsible for and charged with preparing and maintaining the municipality's comprehensive plan. In addition, the planning commission is also charged with preparing the municipality's zoning and subdivision and land development ordinances. These vital community planning activities take extensive time and require particular technical expertise that often requires outside professional assistance to augment the planning commission's limited capabilities (e.g., lack of time as citizen planners, no full-time municipal planning staff, need for special planning expertise, etc.).

Section 210 of the MPC authorizes the planning commission, with the consent of the governing body, to accept and utilize any funds, personnel or other assistance made available by the county, the commonwealth or the Federal government or any of their agencies, or from private sources. The governing body in turn may enter into agreements or contracts for the purpose of utilizing the funds or assistance in or for the planning commission to carry out its duties and responsibilities.

For the reasons specified above, many municipalities often hire a professional consultant to assist the planning commission in carrying out its duties. Choosing the right consultant for the job, and for a community, is a process that requires great care and attention to ensure the governing body's judicious allocation of public resources. At a minimum, consultants should be selected based on their comprehension of the community's needs/problems, commitment to assign staff having the appropriate skills and experience, offering of the most creative approach towards the project, and adherence to deliver the best work effort for the cost.

The Pennsylvania Local Government Partnership has published the "Working with Consultants Guidebook" at http://www.palocalgovtraining.org/pdfs/working_with_consultants.pdf. In addition, the American Planning Association (APA) has published detailed guidance for selecting a consultant at <https://www.planning.org/consultants/choosing/part1.htm>.

In addition to professional consultants, municipalities may also obtain assistance from other sources that include, but are not limited to, the following:

- **County planning agencies** – Pennsylvania counties have a long tradition of being a source of capacity and expertise in planning and land use. Currently, every county has a planning commission, department, or both, or other agency like a development department that handles planning matters. Every county has staff involved in planning. Many county planning agencies offer assistance to local governments in their counties.
- **Regional planning agencies** – Agencies such as the Delaware Valley Regional Planning Commission, Southwestern Pennsylvania Commission, etc., are most often relied upon to provide niche technical services and products, including but not limited to, sophisticated transportation planning models (e.g., travel demand model, transit demand models, etc.), extensive geospatial datasets, special reports on various community planning topics and issues germane to its geographic region. In addition, regional planning agencies also provide funding for various planning activities through competitive application processes.
- **Colleges and universities** – College and university faculty and students often provide a low cost, yet invaluable resource for outside technical assistance that not only benefits the community, but forges and strengthens town and gown partnerships. Many communities have received excellent planning assistance through their local educational institutions often at a lower cost than private or other public sector planning assistance.
- **The Governor's Center for Local Government Services** – the Center provides municipalities and local government officials with assistance and support in a variety of areas, including technical and financial assistance, as well as training in partnership with the Local Government Training Partnership. More information regarding the Center's services is available at <http://www.newPA.com/local-government/services-provided>.

A Note About Studies...

Section 301.2 of the MPC provides for a planning commission to “make careful surveys, studies and analyses of housing, demographic, and economic characteristics and trends; amount, type and general location and interrelationships of different categories of land use; general location and extent of transportation and community facilities; natural features affecting development; natural, historic and cultural resources; and the prospects for future growth in the municipality.”

Conducting studies is beneficial, but studies can become an end in themselves and, worse yet, not used. The MPC intends that municipalities conduct studies as part of the process to create a wise and effective comprehensive plan. The purpose of studies is not to generate encyclopedic tabulations of data. Planning commissions should avoid collecting and presenting data not of particular relevance to the municipality’s problems, needs, or opportunities. Rather, studies should provide “discoveries” and “intelligence” to understand the community’s issues and lead to ideas and solutions to improve the community that will be written into the comprehensive plan then implemented.

XI. Issues Every Planning Commission Member Should Consider

Approaching the Art of Planning: Reactive vs. Proactive

Planning is often more of an art than a science and, as such, a good deal of successful planning relies on timing. The members of a planning commission have a decision to make regarding the approach that they take in carrying out their duties and responsibilities. As stated at the opening of this guidebook, the planning commission member's first responsibility is to help his or her community develop a vision for the future growth, and then seek out a way to implement that vision through the comprehensive plan and by reviewing plans for new development. There are very different approaches to how those two items – the comprehensive plan and the review of new development – can be addressed by the members of the commission. They can take each item as it presents itself and attempt to deal with it, or they can take a proactive approach and attempt to head off any potential problems before they occur. By taking the former approach, (i.e. reacting to and processing subdivision and land development plans), the planning commission is technically fulfilling its obligations. However, if it does not attempt to foresee any potential areas of difficulty, it may not be responsibly carrying out its tasks.

When the governing body has adopted a comprehensive plan, its departments, agencies, and appointed authorities must submit projects to the planning commission for recommendations. Each project represents an opportunity for a planning commission to influence the direction of growth and development within their community. A planning commission should analyze the proposed projects in terms of criteria provided in Sections 303 and 304 of the MPC for establishing the legal status of a comprehensive plan. This is a major effort, but must be done for projects that relate to, for example, the location or opening of any street, public ground or watercourse, or the adoption, amendment or repeal of an official map, subdivision and land development ordinance, zoning ordinance or provision for a capital improvements program.

Although the planning commission serves in an advisory capacity, this does not prevent the planning commission from acting as a pilot to chart change within the community. For example, some external factors, such as a new road or interchange location, may significantly alter both the traffic and land use patterns within the community. This could necessitate an update of the comprehensive plan and quite possibly a zoning amendment. An alert planning commission would be aware of this situation and could present both the problem and possible solutions to the governing body.

Public Participation

Public participation is vitally important to the planning process for two reasons: (1) It allows citizens to have say in the actions and decisions of their governments, including community planning and land use regulations that governing bodies and planning commissions undertake as authorized under the MPC; and (2) it results in better and stronger plans through consensus building and stakeholder advocacy for successful plan implementation.

“Public participation is essential to the planning process—whether it entails a planning commission meeting, zoning board hearing, or visioning exercise that is part of developing a comprehensive plan.”⁴

The MPC stipulates certain public participation requirements that planning commissions must achieve in carrying out their planning duties and responsibilities. These include the following:

- **Comprehensive plan adoption** – Section 302 (a) of the MPC requires that “before adopting or amending a comprehensive plan, or any part thereof, the planning agency shall hold at least one public meeting before forwarding the proposed comprehensive plan or amendment thereof to the governing body.”

- **Zoning ordinance adoption** – Section 607(b) of the MPC stipulates “...the planning agency shall hold at least one public meeting pursuant to public notice and may hold additional public meetings upon such notice as it shall determine to be advisable.”
- **Curative amendments to the zoning ordinance** – Sections 609.1 and 609.2 of the MPC stipulate the requirements for landowner and municipal curative amendments, respectively. In both instances, the governing body shall hold a public hearing before voting on the enactment of an amendment.

Public meeting is defined by Section 107 of the MPC as an open forum held pursuant to notice under the Pennsylvania Sunshine Act (Act 94 of 1986, 65 Pa.C.S.A. § 701). In general, a planning commission is required to conduct its meetings in conformance with the Sunshine Act and its meetings must be made known through public notice according to Section 709 of the Act. Furthermore, its meetings must be open to the public and the public must be permitted to participate in the meetings in accordance with Section 710.1 of the Act. Finally, the planning commission must keep minutes of its meetings and all votes must be publicly cast and recorded.

Planning commissions must recognize that the MPC’s public participation specifications constitute the minimal legislative requirements. Instead, effective planning processes should have multiple and varied public participation opportunities programmed throughout their durations, i.e., from beginning to end. Such opportunities include but are not limited to:

- Project steering committees comprised of municipal officials, community stakeholders, and citizens alike;
- Telephone or in-person interviews with key stakeholders, etc.;
- Paper or web-based surveys;
- Community design charrettes;
- Public open houses;
- Interactive project websites and social media;
- On-line meetings (e.g., webinars);
- Showcasing the planning initiative at community events.

Planning commissions may consult the following publications for additional guidance on various public participation and public outreach tools and methods:

- The United States Environmental Protection Agency’s Public Participation Guide (<http://www.epa.gov/oiamount/public-participation-guide/index.html>)
- The American Planning Association’s Community Engagement Publication Brief (<http://www.planning.org/research/arts/briefingpapers/pdf/engagement.pdf>)

Ethics

The activities of the planning commission do come under the scrutiny of the public. It is therefore important that any activities of the planning commission avoid even the hint of any possible unethical conduct or activity.

The Public Official and Employee Ethics Act, 65 Pa.C.S. § 1101 et seq. (Ethics Act), applies to individuals who are defined by the Act to be a “public official.” Members of a planning commission delegated with authority to make decisions on subdivision and land development plans qualify as “public officials” and are subject to the requirements of the Ethics Act.

Most planning commissions do not make decisions on applications; rather, they make recommendations to the governing body of the municipality. When a planning commission functions as an advisory body, the Ethics Act is not applicable to the individual members of the planning commission. Nonetheless, it is strongly recommended that the planning commission consult with its solicitor concerning the applicability of the Ethics Act, or contact the Pennsylvania Ethics Commission.

The planning commission may at some time be confronted with an issue in which one or more of its members has a financial interest. In such instances where the planning commission has been delegated decision-making authority, the member or members of the planning commission who may have a financial interest in the matter should disclose the nature of his or her interest in the matter and excuse themselves from any deliberation and voting. Even if the member feels that there will be no conflict of interest it may not appear this way to the public. By explanation of the situation or relationship, the disclosure will "clear the air" and allow the public to make an informed judgment. It is always wise to consult with a solicitor if doubt about conflict exists and to disclose any potential conflict of interest prior to casting a vote.

Where the planning commission has been delegated decision-making authority, members are subject to the conflict provisions of the Ethics Act. Section 1103(a) of the Ethics Act provides that "[n]o public official or public employee shall engage in conduct that constitutes a conflict of interest." The Ethics Act defines "conflict of interest" as "[u]se by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for a private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated. The term does not include an action having a de minimis economic impact or which affect to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation or other group which includes the public official or public employee, a member of his immediate family or a business with he or a member of his immediate family is associated." "De minimis economic impact" is defined as "[a]n economic consequence which has an insignificant effect." Section 1103(j) of the Ethics Act requires, in the event of conflict of interest under the Ethics Act, that recusal of the individual with the conflict must "publicly announce and disclose the nature of his interest [the conflict of interest] as a public record in a written memorandum filed with the person responsible for recording the minutes of the meeting at which the vote is taken." The individual recused may not participate in the matter from which he is recused. That is, he may not participate in the discussion, make a motion, second a motion, or vote on a motion relating to the matter.

The Ethics Act also requires an individual who is defined by the Act to be a "public official" to annually file financial disclosure statements. Members of a planning commission *that has been delegated decision-making authority* on subdivision and land development plans are required to make such filings. Based on an opinion of the Ethics Commission, planning commissioners *servicing in an advisory capacity only* are not required to make these filings. However, because the law on this issue is not well-established, it is recommended that they do so and also consult with their solicitor on the current law.

Planning Ethics

Recognizing that planning commission members appointed by the governing body serve in a public capacity authorized under the MPC, they are obligated to conduct themselves in an ethical and professional manner. According to the APA, there are two standards set for ethical behavior in the field of planning. The first is a Code of Ethics binding on members of the American Institute of Certified Planners (AICP) and the second standard is APA's Ethical Principles in Planning, which applies to citizens and non-AICP certified planners including elected and appointed officials, such as planning commissioners. This standard is not binding; it is a set of guidelines. However, some planning commissions formally adopt the ethical principles to assist them with ethical public decision making.

References

1. American Planning Association. "Planners' Communications Guide: Strategies, Examples, and Tools for Everyday Practice." Accessed online May 23, 2014 at <http://www.planning.ri.gov/documents/comp/APA%20Communication%20Guide.pdf>
2. *What is Planning?* American Planning Association. Retrieved April 9, 2014 from <https://www.planning.org/aboutplanning/whatisplanning.htm>.

XII. Planning Assistance from DCED

DCED's Governor's Center for Local Government Services (Center) provides a full range of technical and financial services to all of Pennsylvania's local governments. The Center is the principal state agency responsible for helping with planning and land use matters discussed in this publication.

Local government officials, planners, and other interested individuals have several sources of assistance from the Center:

- **Toll-free telephone number** – 888-223-6837. Callers will be connected with staff that has knowledge of planning, land use, zoning, subdivision and land development, and the PA Municipalities Planning Code.
- **Website** – www.newPA.com/local-government. There are helpful pages under Community Planning, plus information on the topics listed below.
- **Publications** – www.newPA.com/local-government/publications. This and the other nine Planning Series publications listed in the Preface can be downloaded and printed for free, or hard copies can be purchased at cost. The website also has publications with suggested provisions for floodplain management ordinances, plus publications on many topics from fiscal management to intergovernmental cooperation to open meetings.
- **Training** – <https://palocalgovtraining.org>. DCED provides funding for local government training programs via the PA Local Government Training Partnership. There are training courses, videos, and online instruction on a variety of topics, including planning and land use, plus ten fact sheets on planning and land use topics.
- **Land use law library** – www.landuselawinpa.com. DCED and the PA Local Government Training Partnership maintain an online library of significant court cases on zoning, subdivision and land development, and other land use topics.
- **Planning and land use eLibrary** – <http://elibrary.pacounties.org>. DCED and the County Commissioners Association of Pennsylvania maintain an online library of comprehensive plans, zoning ordinances, and subdivision and land development ordinances in effect in Pennsylvania counties, cities, boroughs, and townships.
- **Financial assistance** – www.newPA.com/find-and-apply-for-funding. Currently DCED provides funding for local government planning through the Municipal Assistance Program. MAP offers up to 50 percent grants for costs of undertaking comprehensive plans, zoning ordinances, subdivision and land development ordinances, and more.

XIII. Other Planning Assistance

Assistance and training on planning and land use are available from other sources:

- **Pennsylvania Chapter of the American Planning Association (APA-PA)** – The Pennsylvania Chapter of the American Planning Association sponsors training and professional development opportunities to its members through its annual fall conference. In addition, APA-PA's six regional Sections sponsor training opportunities that are often driven to afford members the opportunity to earn AICP (American Institute of Certified Planners) Certification Maintenance Credits. More information on APA-PA is available online at <http://planningpa.org/>.
- **Pennsylvania Local Government Training Partnership** – The Pennsylvania Local Government Training Partnership is a training initiative between the Governor's Center for Local Government Services and Pennsylvania's statewide associations representing local governments. More information may be obtained from its website at <https://palocalgovtraining.org/>.
- **Local government associations** – In addition to programs through the PA Local Government Training Partnership, Pennsylvania's statewide associations representing different categories of local governments also offer annual conferences and training programs, including planning and land use, to their member local governments.
- **The Pennsylvania Municipal Planning Education Institute (PMPEI)** – PMPEI was established in 1992 for the purpose of providing courses in community planning and land use regulations for planning commissioners, zoning hearing board members, zoning administrators, elected officials, and others with an interest or involvement in planning. More information on PMPEI may be obtained on its website at <http://extension.psu.edu/community/pmpei>.

Appendix I: Additional Resources and Readings for Planning Commissioners is a valuable bibliography and resource list that provides the basic resource library for any planning commissioner in the commonwealth.

XIV. Conclusion

The job of the planning commission is not an easy one, and commissioners must juggle many difficult tasks if they are to be ultimately successful. This guidebook is designed as a primer for many of those tasks, and is intended to be a starting point for local governments as they either begin or further develop their planning capabilities.

Planning commissioners are leaders in their communities, and as such, have great potential to shape the future of their homes. As a whole, the planning commission also has many responsibilities. It is expected to oversee the growth and development of the community and to ensure that the community's infrastructure is prepared for any growth and development that may occur. It must advise the governing body on matters relating to planning and community facility needs. It is obligated to prepare amendments to planning and planning related ordinances if such become necessary. It must bear the responsibility of advising the governing body on the action that should be taken on subdivision proposals and development plans.

It can also be responsible for a variety of other activities as are specified in the MPC. The responsibilities are considerable, the consequences are important, and the tangible rewards for providing such service are usually difficult to discern. However, thousands of individuals across the commonwealth willingly provide their time and services to serve in such a capacity. They are leaders, and they are visionaries. For Pennsylvania's many communities, that task falls first to the planning commission. It will not be easy, but a healthy, vibrant Pennsylvania – in all of its regions, cities, townships, and boroughs – is the reward.

Appendix I: Additional Readings and Resources for Planning Commissioners

Resources

Governor's Center for Local Government Services:	www.newPA.com/local-government/community-planning
The Governor's Center for Local Government Services serves as a resource for local government officials, developers, and citizens interested in planning to improve, grow, and enhance communities. It provides valuable tools that will support wise land use decisions and encourage economic development, a healthy environment, and strong communities. More information regarding the Center's services may be obtained at www.newpa.com/local-government/services-provided .	
American Planning Association:	www.planning.org
American Planning Association Planning Commissioners Service:	www.planning.org/commissioners/
Pennsylvania Chapter of American Planning Association:	http://planningpa.org/
Pennsylvania Municipal Planning Education Institute (PMPEI):	http://extension.psu.edu/community/pmpei
Pennsylvania Local Government Training Partnership:	https://palocalgovtraining.org/
Planners Web – News and Information for Citizen Planners:	www.plannersweb.com
Planetizen: The Planning & Development Network:	www.planetizen.com

Further Reading for Planning Commission Members

As of this writing, the American Planning Association – at <http://www.planning.org/library> – maintains lists of suggested readings on planning:

- Essential Planning Library
- 100 Essential Books of Planning (1909 – 2009)
- An Annotated List of Electronic and Print Resources for Practicing Planners, Scholars, and Students of Planning

Appendix II: Model Ordinance for Creating a Planning Commission

AN ORDINANCE NO.

An Ordinance signifying the intention and desire of the _____ (Board of Supervisors, Board of Commissioners, Council) of the _____ (Township, Borough, City) of _____ (County) Pennsylvania, to create and establish a Planning Commission under the provisions of the Pennsylvania Municipalities Planning Code Act 247 of 1968, P.L. 805, *as reenacted and amended, 53 P.S. § 10101, et seq.*

BE IT ORDAINED and ENACTED by the _____ (Governing Body) of the _____ (Township, Borough, City) of _____ (County).

Section 1. That the _____ (Board of Supervisors/Board of Commissioners/Council) of the _____ (Township, Borough, City) of _____ (County) hereby signifies its intention and desire to organize a Planning Commission under the provisions of Article III of the Pennsylvania Municipalities Planning Code.

Section 2. The Planning Commission shall consist of ____ (3-9) members, all of whom shall be citizens of the _____ (Township, Borough, City) of _____ (County).

The term of office of the members shall be four (4) years and should expire on December 31 or until a successor is appointed, except that the terms of the members first appointed shall be so fixed that on a commission of eight (8) members or less, no more than two (2) shall be reappointed during any future calendar year, and on commissions of nine (9) members, no more than three (3) shall be so reappointed or replaced. In the event of vacancies, the governing body shall appoint a member to fill the unexpired term.

The members of the Planning Commission shall be appointed by the _____ (Board of Supervisors/Board of Commissioners/Council) by resolution which shall also state the term to be filled by each planning commissioner.

***NOTE:** Elected or appointed officers or employees of the municipality may serve on the planning commission. However, on a commission of three members at least two members shall be citizen members; on a commission of four or five members at least three members shall be citizen members; on a commission of six or seven members at least five shall be citizen members; and on a commission of eight or nine members at least six shall be citizen members.

Section 3.

A. The planning commission shall at the request of the _____ (Board of Supervisors, Board of Commissioners, Council) have the power and shall be required to prepare the comprehensive plan for the development of the municipality as set forth in the MPC and present it for the consideration of the _____ (Board of Supervisors, Board of Commissioners, Council).

B. The planning commission shall maintain and keep on file records of its actions. All records and files of the planning commission shall be in the possession of the governing body.

C. The planning commission at the request of the governing body may:

- (1) Make recommendations to the governing body concerning the adoption or amendment of an official map.
- (2) Prepare and present to the governing body of the municipality a zoning ordinance, and make recommendations to the governing body on proposed amendments to it.
- (3) Prepare, recommend and administer subdivision and land development and planned residential development regulations.
- (4) Prepare and present to the governing body of the municipality a building code and a housing code and make recommendations concerning proposed amendments thereto.
- (5) Do such other acts or make studies as may be necessary to fulfill the duties and obligations imposed by the MPC.
- (6) Prepare and present to the governing body of the municipality an environmental study.
- (7) Submit to the governing body of a municipality a recommended capital improvements program.
- (8) Prepare and present to the governing body of the municipality a water survey, which shall be consistent with the State Water Plan and any applicable water resources plan adopted by a river basin commission. The water survey shall be conducted in consultation with any public water supplier in the area to be surveyed.
- (9) Promote public interest in, and understanding of, the comprehensive plan and planning.
- (10) Make recommendations to governmental, civic, and private agencies and individuals as to the effectiveness of the proposals of such agencies and individuals.
- (11) Hold public hearings and meetings.
- (12) Present testimony before any board.
- (13) Require from other departments and agencies of the municipality such available information as relates to the work of the planning agency.
- (14) In the performance of its functions, enter upon any land to make examinations and land surveys with the consent of the owner.
- (15) Prepare and present to the governing body a study regarding the feasibility and practicability of using renewable energy sources in specific areas within the municipality.
- (16) Review the zoning ordinance, subdivision and land development ordinance, official map, provisions for planned residential development and such other ordinances and regulations governing the development of land no less frequently than it reviews the comprehensive plan.

***NOTE:** Listed above are all of the duties that the MPC enables a governing body to authorize its planning commission to perform. A governing body may elect to authorize its planning commission to perform all of the duties listed by the MPC or a limited number of the duties. In the latter case, C. should specify the specific duties.

Section 4. The planning commission may, with the consent of the governing body, accept and utilize any funds, personnel or other assistance made available by the county, the commonwealth, or the federal government, or any of their agencies, or from private sources. The governing body may enter into agreements or contracts regarding the acceptance or utilization of the funds or assistance in accordance with the governmental procedures of the municipality.

Section 5. All other resolutions and ordinances or parts thereof, inconsistent herewith, are hereby repealed.

Duly presented and ordained and enacted at a regular meeting of the _____ (Governing Body) of the _____ (Township, Borough, City) of _____ (County), Pennsylvania held the day of _____, 20_____.

ATTEST: _____

Secretary

Appendix III: Suggested Bylaws for Planning Commissions

ARTICLE I. NAME OF COMMISSION

The name of this organization shall be _____ (insert County, City, Township, Borough as appropriate) Planning Commission.

ARTICLE II. AUTHORIZATION

The authorization for the establishment of this Planning Commission is set forth under the Pennsylvania Municipalities Planning Code (MPC), Act 247 of 1968, P.L. 805, as reenacted and amended, 53 P.S. § 10101, et seq. Powers and duties are delegated to the Planning Commission by the _____ (insert "Council," "Board of Commissioners" or "Board of Supervisors," as appropriate) of _____ (insert County, City, Township, Borough as appropriate) by Ordinance _____ (insert number) of _____ (insert date) in accordance with the above-mentioned enabling law.

ARTICLE III. MEMBERSHIP

Membership shall consist of [three, five, seven or nine] persons to be appointed by the _____ (insert "Council," "Board of Commissioners" or "Board of Supervisors," as appropriate). The term of office of members shall be four (4) years, except for those members first appointed after creation of the planning commission and those members appointed to fill a vacancy and for the unexpired term of that vacated seat.

ARTICLE IV. VOTING

Section 1. Each member shall be entitled to one vote.

Section 2. Voting shall be by roll call.

Section 3. If a quorum is present, a simple majority of the votes cast on any particular matter of business will carry the issue.

Section 4. A record of the roll call vote shall be kept as a part of the minutes.

Section 5. A motion from the floor must be made and passed in order to dispense with any item on the agenda.

ARTICLE V. OFFICERS

Section 1. The Officers of the Planning Commission shall consist of a Chairman, Vice-Chairman, and Secretary.

Section 2. The Chairman shall preside at all meetings and hearings of the Planning Commission and shall have the duties normally conferred by parliamentary usage on such officers.

Section 3. The Secretary shall keep the minutes and records of the Commission, and with the assistance of such staff as is available, shall prepare the agenda of regular and special meetings under the direction of the Chairman, provide notice of all meetings to Commission members, arrange proper and legal notice of hearings, attend to correspondence of the Commission, and such other duties as are normally carried out by a Secretary. [Alternatively, the Bylaws may provide for a municipal clerk or Secretary to keep the minutes and records.]

ARTICLE VI. ELECTION OF OFFICERS

Section 1. An annual organization meeting shall be held during the first regular meeting in January or at a special meeting following the organization meeting of the governing body.

Section 2. Nomination shall be made from the floor at the annual organization meeting and election of the officers specified in Section I of Article IV shall follow immediately thereafter.

Section 3. A candidate receiving a majority vote of the entire membership of the Planning Commission shall be declared elected, and shall serve for one year or until his successor shall take office.

Section 4. Vacancies in office shall be filled immediately by regular election procedure.

ARTICLE VII. MEETINGS

Section 1. Public notice shall be published of all meetings.

Section 2. Regular meetings will be held on the _____ (insert day of week, week of month) at _____ (insert time of day) at _____ (insert location). In the event of conflict with holidays or other events, a majority at any meeting may change the date of said meeting.

Section 3. A quorum shall consist of ____ (insert simple majority number as appropriate depending on the size of the planning commission established by the governing body). A quorum is necessary to transact business.

***NOTE:** Section 207 of the MPC, Conduct of Business, does not set minimum requirements for a quorum to do business at a meeting of a planning commission. A quorum is best determined by a majority of members appointed to the planning commission by the governing body.

Section 4. Special meetings may be called by the Chairman. It shall be the duty of the Chairman to call a special meeting when requested to do so by a majority of members of the Commission. The Secretary shall notify all members of the Commission not less than 24 hours in advance of such special meeting and provide notice to the public as required by the Sunshine Act, Act 94 of 1986, *as amended*, 67 Pa. C.S. § 701, *et seq.*

Section 5. All meetings shall be conducted in conformance with the requirements of the Sunshine Act. All meetings shall be open to the general public. Any person attending a meeting shall have the right to use recording devices to record all proceedings. Use of devices such as audio, video, or other recording equipment shall be subject to rules and guidelines prepared and approved by the commission. However, in accordance with the Sunshine Act, such rules or restrictions shall not serve to exclude use of recording devices to record the proceedings of a public meeting.

ARTICLE VIII. ORDER OF BUSINESS

The order of business at regular meetings shall be:

- a. Roll call
- b. Reading of minutes
- c. Communications [and bills]
- d. Reports of Officers
- e. Old business
- f. New business
- g. Public comments and questions
- h. Adjournment

ARTICLE IX. EMPLOYEES

Within the limits imposed by the funds available for its use, the Commission may employ such staff personnel and/or consultants as it sees fit to aid in its work. Appointments shall be made by a majority of the entire Commission membership.

ARTICLE ____. SUBDIVISION AND LAND DEVELOPMENT PLANS

(If the governing body has delegated decision-making authority to the Planning Commission, describe in this article the required procedures for consideration and action on a proposed subdivision and/or land development plan. In such case, the Planning Commission must conform its actions to the procedural requirements set forth in Article V of the MPC.)

ARTICLE X. PUBLIC HEARINGS

Section 1. (Include if the governing body has delegated decision-making authority to the Planning Commission). The Planning Commission may hold public hearings subject to public notice, as required by the MPC, on proposed subdivision and land development plans.

Section ____. The Planning Commission may hold public hearings when it decides that such hearings will be in the public interest.

Section ____. Notice of the time and place of a public hearing shall be published pursuant to public notice as provided for in the MPC. [or by alternate described means.]

Section ____. The matter before the Commission shall be presented in summary by a member of the Commission designated by the Chairman, and parties in interest shall have the privilege of the floor.

Section ____. A record shall be kept of those speaking before the Commission at such hearings.

ARTICLE XI. AMENDMENTS

These bylaws may be amended by a majority vote of the entire membership of the Planning Commission. Adopted this date _____.

Attested:

Secretary

Signature of Chairman

**Pennsylvania Department of Community & Economic Development
Governor's Center for Local Government Services**

Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

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