



City of Grand Forks
Staff Report
Planning & Zoning Commission – December 4, 2019

Agenda Item: 6-2 Discussion of the update of the Planning and Zoning Commission By-Laws.

Prepared by:

Submitted by: Brad Gengler, City Planner

Staff Recommended Action: Discussion of the by-laws.

December 4, 2019 – Committee Recommended Action: Discussion

January 8, 2020 – Committee Recommended Action: Preliminary approval

February 5, 2020 – Committee Recommended Action: Final approval

BACKGROUND: The Planning and Zoning Commission by-laws have not been updated since 1992. There are a few areas that have to be amended, such as the reduction in the Commission membership. Other sections contain duties and procedures that are no longer applicable to the Commission. Staff would like to have a general discussion of the by-laws and the changes that need to be made. Also, it was recently brought to my attention that the City Council’s Code of Ethics adopted in 2002 applies to all “public bodies.” The intent would be to bring an amended by-laws document back to the Commission for preliminary approval in January and final adoption in February.

NOTE: Text highlighted in green need to be amended. Text in yellow are areas we need to discuss in more detail.

SUPPORT MATERIALS:

- Current P&Z Commission by-laws
- GF City Council Code of Ethics – adopted September 8, 2002

By-Laws

OF

**THE PLANNING & ZONING
COMMISSION**

FOR

THE CITY OF GRAND FORKS

November, 1992

**CITY OF GRAND FORKS PLANNING AND ZONING COMMISSION STANDARD
OPERATING BY-LAWS**

I. STRUCTURE

A. Membership. The Commission shall consist of ~~sixteen~~ **nine** members as follows:

<u>Interest Represented</u>	<u>Number</u>	<u>Appointed by</u>
1. School Board	1	Mayor & Approved by City Council
2. Park Board	1	Mayor & Approved by City Council
3. County Extraterritorial Area	3	County Commission and City Council
4. City Council	2	Mayor & Approved by City Council
5. At Large	6	Mayor & Approved by City Council
6. Mayor	1	Ex-Officio
7. City Engineer	1	Ex-Officio Non-voting
8. City Attorney	<u>1</u>	Ex-Officio
TOTAL	16	

B. Term of Membership. Members shall be appointed for a five-year staggered term. **Commission members appointed to represent specific bodies shall not be eligible to continue on the Commission and shall resign from the Commission upon the installation of their successor on the represented public body.**

C. Removal of Members. Upon recommendation of its Executive Committee, a majority of the Commission may recommend to the mayor and city council that members be removed and replaced for any of the following reasons:

- 1) Absent from four or more meeting per calendar year;
- 2) Absent from three consecutive meetings; or
- 3) Violation of the Code of Ethics in Section 8.

II. OFFICERS. All officers shall be elected annually in December from the members of the Commission. All officers of the Planning and Zoning Commission shall not serve more than two (2) consecutive years in any one office.

- A. The President. Shall generally preside and conduct all Commission meetings, all special meetings and with the advice and consent of other members, may appoint committees from Commission members to perform specific duties. It shall be the duty of the President to meet with Commission staff at least once a month, preferably just prior to the Commission meeting, to review the staff's recommendations and annual work program. The President shall act as an impartial moderator during the debate on all issues.
- B. The Vice-President. In the event of the absence, disability, resignation, illness or conflict of interest of the President, the Vice-President shall exercise all the duties of said President, and in the event the President shall automatically become Commission President and the position of Vice-President shall be deemed vacant and the Commission may elect from its own members a successor Vice-President to fill this vacancy at its next regular meeting.
- C. The Secretary. The Secretary of the Planning Commission shall be responsible for keeping an official record of the meeting, give notice of public hearings by advertising the time and place of such hearing in the official newspaper of general circulation; and either the Secretary or President of the Planning Commission will sign any document if approved. In the absence of the Secretary, the Planning Director shall exercise the duties of the Secretary and be empowered to sign legal documents for the Commission. If the Commission disapproves a petition, such action together with the reasons, therefore will be entered in the official records of the Planning Commission.
- D. The Executive Committee. The Committee shall consist of the President, Vice-President, and Secretary. The Executive Committee shall be responsible for interviewing prospective employees for the Planning Director's position, review the Planning and Zoning Commission budget, make administrative policy recommendations to the full body, and shall perform other functions as agreed upon by the Commission. This body shall meet when called upon by the President or Planning Director.

III. MEETING.

- A. Quorum. A quorum shall consist of nine five members present at a meeting. If the Commission fails to achieve a quorum within thirty minutes after the scheduled

meeting time, the Commission meeting will be postponed and reconvened one week later at the same time.

- B. Regular Meetings. The Commission shall meet on the first Wednesday of each month at the time established by the Commission. If the regular meeting date shall fall on a holiday when the City government offices are generally closed, the meeting shall be held on the regular meeting day and time of the succeeding week.
- C. Special Meetings. The Planning Director, with the consent of the President, may call special business meetings on the third Wednesday, if the workload warrants. Other special meetings may be called by the President, on not less than three (3) days notice, to all Commission members to discuss issues of importance to the Commission.
- D. Annual Meeting. The President, upon recommendation of the Executive Board, may call an annual meeting. **Cost for this meeting will be paid by the Commission.**
- E. Meeting Locations. All regular meetings of the Commission shall be held in the Chambers of the City Council, City Hall, Grand Forks, North Dakota, on the day and time specified in B., above. Special and annual meetings may be held at other locations and at other times which shall be designated in the written notice of an annual or special meeting, which shall be transmitted to each member not later than three (3) days prior to the meeting date.
- F. Order of Business. The agenda shall be in the following order:
1. Roll Call
 2. Reading and Approval of Minutes
 3. Public Hearings, Minor Changes and Final Approvals
 4. Petitions, Communications and Preliminary Approvals
 5. Reports from the Planning Office
 6. Other Business
 7. Adjournment (including date of next scheduled meeting)

The items of business to be considered at any regular or special meeting shall be specified on the notice of such meetings, which shall be the meeting agenda and which shall be transmitted to each member, in case of a regular meeting, not later than four days immediately preceding the meeting date and in case of special meetings, not later than provided above. Items of business at any regular or special

meeting will be considered by the Commission in the order in which they appear on the meeting agenda. Except in cases of extreme importance or mistake, no items shall be added to the agenda after said written agenda is transmitted to the Commission members. It will take a 100% favorable vote of the Planning Commission as a whole to consider additional agenda items.

G. Records. The Commission shall keep a record of its resolutions, transactions, findings and determinations, and such record shall be a public record as required by state law.

IV. VOTING.

All commission members, including the President, Vice-President, Secretary and Ex-Officio members, shall be entitled to one equal vote at any regular or special meeting. The Assistant City Attorney will be permitted to vote as a proxy for the City Attorney. With that single exception, there shall be no voting by proxy. Dissenting votes or abstentions on any matter presented to the Commission shall be clearly expressed orally or in writing when voting is in progress. All matters presented for Commission consideration shall be decided by the majority vote of those present at the meeting. In case of a tie, the request will be considered defeated.

V. COMPENSATION

All members of the Commission shall serve without compensation. When duly authorized by the Commission, members thereof may attend planning conferences or meetings of planning institutes or hearings upon legislation, and the Commission may pay the reasonable traveling expenses incident to such attendance pursuant to a resolution entered upon the Minutes.

VI. PETITIONERS APPEARANCE BEFORE COMMISSION

Failure of a petitioner or a petitioner's representative to appear at any regular or special meeting, following notice that the petition is scheduled for consideration, may warrant the Commission in summarily denying, tabling or continuing to the next meeting the action sought by the petition. Any notice to be given shall be made as prescribed by City ordinance or applicable state law.

VII. SUBCOMMITTEE CHAIRPERSON TO COUNCIL

Chairpersons of all officially appointed subcommittees shall attend City Council meetings with the Planning Director to represent the Planning Commission on adopted subcommittee reports.

VIII. ETHICS

- A. The planning process must continuously pursue and faithfully serve the public interest. Planning and Zoning Commissioners shall:
1. recognize the rights of citizens to participate in planning decisions;
 2. strive to give citizens full, clear and accurate information on planning issues and the opportunity to have a meaningful role in the development of plans and programs;
 3. strive to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of disadvantaged groups and persons;
 4. assist in the clarification of community goals, objectives and policies in plan-making;
 5. ensure that reports, records and any other non-confidential information which is, or will be, available to decision-makers is made available to the public in a convenient format and sufficiently in advance of any decision;
 6. strive to protect the integrity of the natural environment and the heritage of the built environment;
 7. pay special attention to the inter-relationship of decisions and the long range consequences of present actions;
- B. Planning and Zoning Commissioners shall continuously strive to achieve high standards of integrity and proficiency so that public respect for the planning process will be maintained. Planning and Zoning Commissioners shall:
1. exercise fair, honest and independent judgement in their roles as decision-makers and advisors;
 2. define "personal interest" broadly to include any actual or potential benefits or advantages that they, a spouse, family member or person living in their household might directly or indirectly obtain from a planning decision;
 3. abstain from voting and abstain completely from direct or indirect participation in any matter in which they have a personal interest, and shall state and disclose the existence of any personal interest prior to or as soon as possible following the introduction of the matter on the floor for discussion.
 4. accept no gifts or favors, nor offer any, under circumstances in which it might reasonably be inferred that the gifts or favors were intended or expected to

influence a participant's objectivity as an advisor or decision maker in the planning process;

5. not use confidential information acquired in the course of their duties to further a personal interest;
6. not disclose confidential information acquired in the course of their duties except when required by law, to prevent a clear violation of law or to prevent substantial injury to third persons; or upon advice of the City Attorney;
7. not misrepresent facts or distort information for the purpose of achieving a desired outcome;
8. not participate in any matter unless adequately prepared and sufficiently capacitated to render thorough and diligent service;
9. respect the rights of all persons and not improperly discriminate against or harass others based on characteristics which are protected under civil rights laws and regulations.

IX. OTHER PROCEDURES

All operating procedures not specifically provided for herein shall be governed by Robert's Rules of Order, which are hereby incorporated for purposes of reference. In the event any provision of Robert's Rules of Order are inconsistent herewith, these By-laws shall govern.

X. PERSONNEL

The Commission, upon a recommendation of the Executive Committee, may appoint such officers and employees as it may deem necessary for its work, and the appointment, promotion, demotion, and removal of such officers and employees shall be subject to the same provisions of law as govern other corresponding civil employees. The Commission may contract with architects, city planners, engineers, surveyors and other consultants for such services as it may require.

XI. DUTIES - THE COMMISSION SHALL:

- A. Make and adopt a master plan for the physical development of the municipality and any land outside its boundaries which, in the Commission's judgment, bears a relation to the planning of the municipality.
- B. Recommend to the appropriate public officials, from time to time, programs for specific improvements and the financing thereof;

- C. Consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and with citizens relative to the carrying out of the plan;
- D. Make a preliminary report and hold public hearings on all zoning and subdivision matters before submitting its final report to the governing body.

XII. AMENDMENTS

The By-laws of the Grand Forks Planning and Zoning Commission may be amended by adding, deleting, or changing any section contained herein, by a two-thirds (2/3) vote of Commission; further, a vote on any amendment shall not occur at the meeting where the amendment is introduced but rather shall be acted upon at a subsequent meeting.

Certification

Adopted and amended by the Planning & Zoning Commission on September 19, 1979, on July 7, 1983, and on November 4, 1992.

By:

Eliot Glassheim, President

Attest:

Bob Bushfield, Planning Director

**CITY OF GRAND FORKS
CODE OF ETHICS FOR CITY OFFICIALS**

1. DECLARATION OF POLICY.

a. The proper operation of democratic government requires that City Officials be independent and impartial; that government policy and decisions be made through the established channels of the government structure; that public office not be used for personal gain; and that the public has confidence in the integrity of its government. City Officials are agents of public purpose and hold office for the benefit of the public. They are bound to uphold and to carry out impartially the laws of the National, State, and City. They are bound to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern. In recognition of these goals, there is hereby established a Code of Ethics for all City Officials.

b. The purpose of this section is to establish guidelines for ethical standards of conduct for all City Officials by setting forth those acts or actions which are incompatible with the best interests of the City and by directing disclosures by City Officials of private financial interests in matters affecting the City. The City Council recognizes City officials are drawn from society and, therefore, cannot and should not be without all personal and economic interest in the decisions and policies of government. The City Council recognizes citizens who serve as City Officials retain their rights as citizens to maintain financial interests of a personal and economic nature, that the standard of ethical conduct for City Officials needs to distinguish between those minor and inconsequential conflicts which are unavoidable in a free society and those conflicts which are substantial and material, that the City Officials may engage in employment, professional or business activities other than their duties as a City Official in order to support

themselves and their families and to maintain continuity of their employment, professional or Business activities.

2. DEFINITIONS.

"Business" means any limited liability entity, partnership, non-profit organization, sole proprietor or trust.

"City Official" means any individual, other than the Mayor, who is serving as a member of the City Council or as a member of a Public Body.

"Confidential Information" means all information provided to a City Official whether transmitted verbally or in writing which is not at the time a public record as defined under the provisions of the North Dakota Open Record Law or court decision.

"Financial Benefit" means a direct substantial pecuniary benefit accruing to a City Official or a Business in which the City Official has a Financial Interest as a result of the City Official's official act.

A Financial Benefit does not include: (a) Pecuniary Benefit which is not of the magnitude that would exert an influence on an average or reasonable person or (b) a Pecuniary Benefit of a type which is generally possessed by the general public or a large class of persons to which the City Official belongs.

"Financial Interest" is a Business in which a City Official has more than 10% equity interest or is a director, officer, or manager thereof.

"Pecuniary Benefit" means a benefit in the form of money, personal property, personal privilege, exemption, or advantage which is not available to the general public.

"Public Body" is any board, authority, committee, commission, task force, or other body, authorized by City ordinance or a resolution of the City Council or established by the Mayor.

3. CONDUCT OF CITY OFFICIALS.

a. No City Official shall knowingly receive a Financial Benefit, clearly separate from that of the general public, in any contract, transaction, zoning decision or other matter which is subject to an official act of the City Official unless authorized by law or permitted by a majority of the City Council.

b. No City Official may use his or her position or Confidential Information to secure a Pecuniary Benefit for himself or herself or any member of his or her immediate family or any Business in which he or she or any member of his or her immediate family has a Financial Interest.

c. No City Official may act as an attorney or agent for another in any matter before the City Council or Public Body upon which he or she is serving.

d. No City Official or any Business in which the City Official has a Financial Interest shall enter into a contract with the City or sell goods or services to the City unless the City Official has first made a written disclosure of the nature and extent of his or her Financial Interest to the City Council and a majority of the City Council has acted to allow said City Official or Business to enter into a contract to sell goods or services to the City.

e. A City Official who knowingly has a Financial Interest in any matter before the City Council or Public Body upon which he or she sits, shall disclose said fact on the record before or during the initial discussion of said matter to the City Council or Public Body. Said City Official may participate in a discussion of the matter but may not vote on the particular matter.

4. DISCLOSURE REQUIREMENT.

Each member of the City Council shall file by February 1st of each year a Statement of Interest (prepared by the North Dakota Secretary of State, Form SFN 10172(11-01) with the City Auditor. Said statement shall include a statement of any Business in which he or she holds a Financial Interest and a statement of any Financial Benefit he or she received during the preceding calendar period.

5. ADVISORY OPINIONS.

a. Before engaging in any conduct which may give rise to the suggestion of a conflict of interest or a violation of this Code of Ethics a City Official may request an advisory opinion from the City Attorney whether the contemplated conduct would be a violation of this Code of Ethics.

b. Unless required immediately at an official meeting of the City Council or Public Body, the City Attorney shall provide a written opinion to the City Official requesting the advisory opinion within 10 business days from the date the written request for an advisory opinion was received by the City Attorney.

c. A City Official shall be entitled to rely upon the advisory opinion issued by the City Attorney for purposes of determining adherence to or a possible violation of this Code of Ethics.

d. No City Official shall be censured for a violation of this Code of Ethics if said individual acted in good faith and in compliance with the provisions of an advisory opinion issued by the City Attorney.

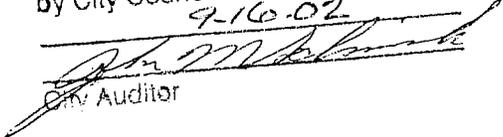
6. ENFORCEMENT.

An alleged violation of the Code of Ethics may be considered by the City Council if a majority of the City Council agrees to hear the facts pertaining to an alleged violation of this

Code of Ethics. If the Council finds a violation of this Code of Ethics has occurred, the City Council may issue such sanctions as it shall determine necessary to enforce this Code of Ethics including but not limited to cancellation of any contracts and censure of the City Official.

ACCEPTED AND APPROVED
by City Council

9-16-02


City Auditor