COUNTY OF ELBERT

COMMUNITY & DEVELOPMENT
SERVICES DEPARTMENT
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RESOLUTION PC - 01-15

THE PLANNING COMMISSION OF ELBERT COUNTY

A RESOLUTION ADOPTING BYLAWS FOR THE ELBERT COUNTY PLANNING COMMISSION

WHEREAS, pursuant to §30-28-104 (1), C.R.S. the Planning Commission shall adopt such rules and regulations governing its procedure as it may consider necessary or advisable; and

WHEREAS, The Elbert County Planning Commission ("Planning Commission") has, to the best of its knowledge, never adopted "Bylaws" for the Planning Commission; and

WHEREAS, staff for the Community and Development Services Department has assisted in the preparation of the proposed Bylaws, as set forth in **EXHIBIT** A, attached hereto and incorporated herein, for consideration by the Planning Commission; and

WHEREAS, upon adoption of the Bylaws by the Planning Commission, any previously adopted bylaws, if any, will be repealed; and

WHEREAS, the Planning Commission reviewed the Bylaws and desire to reflect its approval of said Bylaws by the adoption of this Resolution; and

BE IT RESOLVED, by the Elbert County Planning Commission that the Bylaws, which are attached hereto as **EXHIBIT A**, are hereby approved; and

FURTHER RESOLVED, that any previously adopted Bylaws or Policies and Procedures for the Elbert County Planning Commission are hereby repealed; and

FURTHER RESOLVED, the Bylaws for the Elbert County Planning Commission shall be effective as of the date of this Resolution.

PASSED AND ADOPTED this 18th day of August, 2015 in Kiowa, Colorado

PLANNING COMMISSION
COUNTY OF ELBERT,
STATE OF COLORADO

By: Daniel J Rosales
Elbert County Planning Commission, Chair

ATTEST

By: Curtis S. Carlson
Curtis Carlson, Recording Secretary

EXHIBIT A

ELBERT COUNTY PLANNING COMMISSION
BYLAWS, POLICIES AND PROCEDURES

PART I AUTHORITY

The Elbert County Planning Commission is authorized to adopt rules and regulations governing its procedure pursuant to § 30-28-104 (1), C.R.S., as amended. These Bylaws, Policies and Procedures shall be interpreted and applied in conjunction with Part I, Section 2 of the Elbert County Zoning Regulations (hereinafter referred to as "the Regulations"). Should there be a conflict between these bylaws and the Regulations, the latter shall apply.

PART II MEMBERSHIP

Section 1 - Total Membership

The total number of Commission Members shall be determined in accordance with the Elbert County Zoning Regulations.

Section 2 - Absence of Quorum

A. A quorum of the Commission shall be five (5) members. No meetings shall be held unless a quorum is present. In the absence of a quorum, the Secretary shall enter into the minutes stating the absence of a quorum and the members shall disperse within a reasonable time after gathering. If a meeting has not been convened due to lack of a quorum, the Chair or Vice-Chair shall have the authority to continue or cancel the meeting. Applications that require public notice will not be required to republish so long as there is a continuance to a date certain.

B. Proxies cannot be used for any purpose. If a Planning Commission cannot maintain a quorum due to a member(s) inability to participate due to a conflict of interest, any public hearing or new business agenda item shall be continued to the next available meeting. The record of voting on items shall indicate any Planning Commissioner(s) that abstained due to a conflict of interest.

Section 3 - Eligibility

Eligibility of a Commission Member shall be determined in accordance with the Elbert County Zoning Regulations.

Section 4 - Appointment

Appointments to the Commission shall be made in accordance with Elbert County Zoning Regulations.

Commission members may be reappointed at the discretion of the Board.

Section 5 - Term

The term of a Commission member shall be three years per C.R.S. 30-28-103, *et seq.*, as amended, or until a respective successor has been appointed. In case of a vacancy, an appointment shall be for the purpose of completing the term of the vacating Commission member.

Section 6 - Removal

Commission members may be removed in accordance with the Elbert County Zoning Regulations.

Section 7 - Requirements of Professional Performance.

Every member of the Planning Commission shall abide by the following requirements of professional performance:

A. A Planning Commission member shall seek to avoid impropriety and the appearance of impropriety in all the Planning Commission member's activities.

(1) A Planning Commission member shall at all times seek to respect and comply with the law and should conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the Planning Commission.

(2) A Planning Commission member shall not allow family, social, or other relationships to influence the Planning Commission member's quasi-judicial conduct or independent judgment.

(3) A Planning Commission member shall not perform an official act directly affecting a business or other undertaking in which a member or member's family member has a substantial financial interest in a competing firm or undertaking.

(4) A Planning Commission member shall not lend the prestige of his or her office to advance the private interests of others; nor shall a Planning Commission member convey or permit others to convey the impression that they are in a special position to influence him or her.

(5) No member of the Planning Commission has the authority to speak for or commit the Commission to a particular course of action unless this authority has been granted to the member by a vote of the Commission.

B. A Planning Commission member shall perform the duties of his or her office impartially and diligently. A Planning Commission member's duties include all the duties of his or her office prescribed by law. In the performance of these duties, the following standards apply:

(1) A Planning Commission member shall be faithful to the law and maintain professional competence in the rules and law governing the Planning Commission. A Planning Commission member shall be unswayed by partisan interest, public clamor, or fear of criticism.

(2) A Planning Commission member shall maintain order and decorum in proceedings before him or her.

(3) A Planning Commission member shall be patient, dignified, and courteous to applicants, members of the public, consultants, lawyers and representatives, County employees, and others with whom a Planning Commission member interacts in his or her official capacity.

C. A Planning Commission member shall not participate where unable to professionally perform. In the event that a Planning Commission member finds himself or herself unable to perform in accordance with the requirements of this Section, the member shall disclose such inability and the general reasons therefore immediately following the Chairperson's announcement of the opening or commencement of consideration of the matter and the member shall recuse himself or herself from any official action regarding such matter and not participate as a Planning Commission member.

D. A Planning Commission Member shall participate in annual training as prescribed in Part IV, Section 4, except in the case of a prearranged, excused absence. In the event of an unavoidable absence that Planning Commission Member shall review all the material covered in the training session.

Section 8 - Conflict of Interest

A. Definition of conflict of interest: Commission members have the right and the obligation to vote on all questions before the Commission and to participate in the business of the Commission, except when a conflict of interest as defined in applicable sections of C.R.S. § 24-18-103 through 105 and 109 et seq., as amended, exists, or if an inability to participate in the decision exists as otherwise provided by law.

B. Responsibility for notification of potential conflict: Whenever a Commission Member is considering a matter which raises a question of conflict of interest for a particular commission member, the commission member is responsible for contacting the CDS Department prior to the meeting, if possible, to alert the staff to their situation. If, in the staff's opinion, there is a potential conflict of interest, the County Attorney may be asked for an official opinion which shall be provided to the member prior to the meeting. Commission Members are responsible for determining when a potential conflict of interest exists and are also responsible for alerting the Planning Commission Chairman of the situation prior to commencement of the meeting if possible.

C. Conduct at meetings for Commissioners having conflict of interest: If a Commission Member has a conflict of interest on a particular item, that member shall explain the nature of the conflict to the commission and the public in attendance and shall leave the room. The Commission Member may return to the room when the agenda item giving rise to the conflict has been disposed of. The abstaining member shall not attempt to influence the decisions of the other members of the commission and shall not participate in either the discussion or voting on the item.

Section 9 - Ex Parte Contacts

A. Ex parte contacts are contacts between individuals seeking to influence the decisions of a Planning Commission and individual Commission members outside the meeting forum. Such contacts include visits to sites proposed for development by one or more Commissioners and the proponent of the development; meetings with project proponents separate from Commission meetings; or telephone calls or written communications which attempt to influence a Commissioner's opinion on a project which will be subject to the commissioner's vote.

B. Planning Commission members shall refrain from ex parte conversations and communication concerning applications before the Planning Commission. Members shall inform any party in interest initiating such a conversation or communication of this restriction and shall disclose the content of any such attempted contact or communication at the public hearing on the relevant application. Should any such ex parte contacts occur where relevant information is obtained and considered by a Planning Commissioner, the ex parte contact and information shall be disclosed at the meetings so that participants at the hearing may be confronted with all the facts that influence the disposition of the case and have an opportunity to respond. A decision on whether a recusal is necessary shall be by a majority vote of the Commission members present.

Section 10 - Open Meetings and Open Records

A. Meetings of the Planning Commission, including site visits and work sessions shall be open to the public pursuant to C.R.S. § 24-6-401 *et seq.*, except as provided by law. A Commission may meet in Executive Session as allowed by law.

B. Information presented to the Planning Commission in carrying out its responsibilities, records of its meetings, and any other material resulting from the conduct of its activities shall be kept on file in the Community and Development Services Department (CDS), and shall be available for inspection by the public pursuant to C.R.S. § 24-72-204 et seq. and other applicable law if any.

Section 11 - Compensation

A. A Commission member shall receive such compensation as specified in the Elbert County Zoning Regulations.

B. A Commission member shall not accept any compensation, gift, or service which would violate the provisions of Article XXIX of the Colorado Constitution, as amended.

Section 12 - Election of Officers

A. Officers shall be elected in accordance with the Elbert County Zoning Regulation, Part I, Section 2.

B. A majority vote of the Commissioners is required to elect each Officer.

C. An Officer's term shall be for one year and may be extended for another term each year through reelection.

D. In the event of an Officer's position becomes vacant the position shall be filled in accordance with these Bylaws as soon as is practicable.

E. When a meeting is convened with a quorum present but the Chair and the Vice Chair are not present, the Commission shall elect a temporary Chair for that meeting only.

PART III POWERS, DUTIES, AND RESPONSIBILITIES

Section 1 - Planning Commission

The Commission members shall carry out such powers, duties, and responsibilities as described by C.R.S. § 30-28-103, *et seq.*, as amended, and shall exercise such other powers and duties as may be specifically referred to the Commission by the Board of County Commissioners by resolution, which are not inconsistent with statute.

GENERAL LAND USE APPLICATIONS AND ELBERT COUNTY ZONING REGULATIONS: Pursuant to statute and the Elbert County Zoning Regulations, the primary purpose of the Commission is to make recommendations to the Board on land use applications and amendments to the Elbert City Zoning Regulations, which shall be done in accordance with any time limits established by the Elbert County Zoning Regulations.

Section 2 - Chair

The duties of the Chair shall be as follows:

A. Preside at all meetings of the Commission.

B. Call special meetings of the Commission, as needed, in accordance with these Policies and Procedures.

C. Sign all necessary documents of the Commission.

D. Adhere to these Policies and Procedures.

E. Serve as the point of contact for staff regarding agenda decisions, including both content and schedule.

F. When a meeting has been convened, the Chair shall have the authority to continue or cancel such hearing or meeting for cause, including, but not limited to, absence of quorum and absence of an agenda.

Section 3 - Vice-Chair

In the case of absence or disability of the Chair, the Vice-Chair shall perform the functions of the office of the Chair.

Section 4 - Designated Recording Secretary

In addition to such duties as are assigned by the Elbert County Zoning Regulations and the Director of Community and Development Services, the Secretary to the Planning Commission shall post the appropriate notices due to cancellation of a notice of public hearing.

PART IV HEARINGS and MEETINGS

Section 1 - Meetings with the Board

The Commission members may meet with the Board annually, or as often as agreed upon, to discuss related problems, concerns, and issues, or as often as agreed upon by the Board.

Section 2 - Public Hearings or Meetings

Meetings of the Commission are generally held once per month. Additional meetings may be called in accordance with the Elbert County Zoning Regulation.

Section 3 - Work Sessions

Study sessions or work sessions can be called at any time. Twenty-four (24) hour notice must be provided in the official public posting place. No formal action or decisions can be made at any gathering other than at meetings.

Section 4 – Annual Training Sessions

Following the annual Board of County Commissioners board and committee appointments meeting, a Planning Commission training work session shall be scheduled by CDS as soon thereafter as is practicable.

PART V GENERAL RULES AND PROVISIONS

Section 1 - Rules of Procedure

As the Commission acts mostly in a quasi-judicial capacity, strict adherence to such rules is not mandated. However, it is the intent of these Policies and Procedures that Robert's Rules of Order offer the best procedures and guidelines for the conduct of such proceedings

Section 2 - Meeting Agenda

A. The agenda will be posted in accordance with the requirements of the Elbert County Zoning Regulations and the Colorado Open Meeting Law, C.R.S. § 24-6-401 *et seq.*

B. As a subset of the agenda, a consent agenda groups the routine, procedural, informational and self-explanatory non-controversial items typically found in an agenda. These items are presented to the Commission in a single motion. Anyone may request that a consent agenda item be moved to the regular agenda for further review and public comment.

Complex or potentially controversial items requiring strategic thought, decision making or public comment are handled as a regular agenda item in a public hearing.

C. Public comment is an important part of public hearings. In order to maintain the timelines required by the Elbert County Zoning Regulations and to ensure meetings stay on track, public comment will be generally held to a maximum of three (3) minutes per person per issue. People who do not speak themselves may not give time to others to utilize. There may be times when a person has a well-organized statement they wish to make. If the statement is not overly lengthy, is concise, and if time allows, an extension beyond the three (3) minutes may be granted by the Chair for the statement. Such statements should not exceed ten (10) minutes and the number of this kind of statement allowed per meeting may be limited by the Chair. If a number of the speakers have the same repetitive statement, the chair may halt public comment and ask for additional comments only if the comment does not repeat what has already been said by another speaker in the meeting on the same issue or application.

Section 3 - Voting

A. Total Number of Votes:

At any meetings, each Commission member shall have one vote. A Commission member may not vote on minutes for a meeting a member did not attend. A member may not vote on a project which has been heard at a series of meetings, where that member has not been present at all meetings where the project was considered unless that member has listened to the recording of the meetings(s) from which the member was absent. In the event of a tie, additional motions may be made at that time on the application. If a Commission still has a tie vote after three (3) motions are made in the same meeting, the tie vote will be considered a denial of the application before a commission.

B. Majority Rules:

A majority vote of the voting Commission members present is required for recommendation or determination.

C. Abstention:

No abstentions will be allowed, except as provided herein:

- Conflict of interest.

- Absence at a hearing or meeting for which minutes are voted on.

- Absence at a hearing or meeting of the Commission if the member did not read minutes or listen to audio.

Section 4 - Procedure for Making a Motion

When there is a question regarding procedure, Roberts Rules of Order shall be used as a guideline.

Section 5 - Continuance of Agenda Item

A. When the Commission decides to continue a request before it, it may do so by motion without further notice to affected parties. The matter postponed shall be scheduled to the nearest possible time providing a date and time certain. If the applicant or representative is absent with reasonable excuse, the Commission must: (1) continue the request either to the end of the public hearing or (2) continue the request to a meeting or to a date certain. If the applicant or representative fails to attend the meetings, the Commission may table the item, which would require re-notification in accordance with the applicable process.

B. In accordance with Commission policy, in the course of holding and conducting a public hearing where a quorum of the Commission cannot be secured, the hearing and agenda items will be continued as outlined below:

- When a quorum of the Commission is not available for a previously noticed public hearing, all items on the agenda for that particular date and time will be automatically continued to the next regularly scheduled public hearing of the Commission.

- The Recording Secretary, immediately upon becoming aware of continuance of the public hearing, shall cause notice to be posted on the front door of the meeting location.

C. Continuances are subject to the provisions regarding extensions of time as set forth in the Elbert County Zoning Regulation.

Section 6 - Amendments to these Policies and Procedures

The Planning Commission will accept proposals for amendments to these bylaws from any party at any Commission meeting. Any amendment must be approved by a majority vote of the Planning Commission to become effective.

Section 7 – Severability

If any section, subsection, sentence, clause, or phrase of these Policies and Procedures is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of these Policies and Procedures.

Section 8 - Definitions

Applicant: That person or firm who proposed action to be taken by the Elbert County Planning Commission.

Board: The Elbert County Board of County Commissioners. (BOCC)

Commission: Elbert County Planning Commission.

Commission Member: A person appointed by the Board to serve at all public hearings or meetings of the Commission.

Continuance: An action taken by the Commission members which postpones the meetings on the request until a date and time certain.

County: Elbert County.

Majority, "Majority Vote of the Commission", "Majority of the Commission": One more than half the voting Commission members present if a quorum has been met.

Motion: A statement by a Commission member of proposed action to be taken by the Commission members.

Public Hearing Item: A request that requires public notice in accordance with the applicable laws, regulations, and processes.

Meetings: A meeting that may include both public hearing items and/or public meeting items.

Public Meeting Item: A request that does not require additional mailed or published public notice as required by applicable laws, regulations, and processes.

Public Testimony: That portion of a Commission meeting during which public input is accepted.

Quorum: A quorum shall consist of a minimum of five (5) Commission members.

Resolution: A formal written statement which includes findings of fact to support the decision or recommendation.

Table: To postpone consideration indefinitely; Requires re-notification in accordance with the applicable process.

Unexcused Absence: An absence from a Planning Commission meeting by a Commission member who has not notified either the Commission Chair or Community Development Services within a reasonable time of learning of the need for an absence.

Section 9 Effective Date

These bylaws shall be effective upon adoption by a majority vote of the Planning Commission.