1. Meeting Agenda (PDF)

   Documents: 05-16-2013 AGENDA (PDF).PDF
2. College Street Zoning District Proposal (PDF)

   Documents: COLLEGE STREET ZONING DISTRICT PROPOSAL (PDF).PDF
3. Proposed Live / Work Overlay District (PDF)

   Documents: PROPOSED LIVE WORK OVERLAY DISTRICT (PDF).PDF
4. Planning And Zoning Conflict Of Interest And Rules Of Procedure (PDF)

   Documents: PLANNING AND ZONING CONFLICT OF INTEREST AND RULES OF PROCEDURE (PDF).PDF

Planning & Zoning Commission Agenda

May 16, 2013 - 6:30 p.m.

Members

Matt Edwards (Chair), King Coltrin (Vice-Chair), Jay McClelland, Jim Hansen, Jason Ray, Gabrielle White, Phil Young, Tom Baird, IV, Shelby Lawhon

Roll Call

Approval of Minutes: May 2, 2013

Communications

Finalization and Approval of Consent Items

(These consent cases will be approved by Commission unless a Commissioner or someone else wished to speak to them. If so, those cases will be moved to the appropriate place on the agenda and they may be spoken to, and voted on, at that time.)

Other Business:

1. Development Review Task Force Proposals: Sidewalk, Traffic Study, Floor Area Ratio and Right-of-way issues
   Dawne Gardner, Public Works Transportation Planner.
2. College Street Zoning District Proposal
   Bob Hosmer, Principal Planner
3. Proposed Live/Work Overlay District
   Moon City Creative District
   Ralph Rognstad, Director, Planning Department
4. Planning and Zoning Conflict of Interest and Rules of Procedure
   Nancy Yendes, Assistant City Attorney

Any Other Matters Under Commission Jurisdiction

For items for which the public may speak, the Commission Chairperson will invite anyone who wishes to speak to an item after staff makes its presentation. When you address Commission, please step to the microphone at the podium and state you name and address. All meetings are televised live and tape recorded. Please limit your remarks to five (5) minutes unless Commission allows a longer time. In accordance with ADA guidelines, if you need special accommodations when attending any City meeting, please notify the city Clerk's Office at 417-864-1443 at least three (3) days prior to the scheduled meeting.

Section 4-3600. WC - West College Street District

4-3601. **Purpose.** This district is intended to be a mixed-use district that accommodates a variety of residential and commercial uses. The three (3) subareas established by this section are intended to encourage an eclectic mix of businesses, artist studios, architecture and residents consistent with the adopted College Street Corridor Plan. WC-1, the Mixed-Use sub-area, is designed to accommodate a mix of commercial and residential uses. WC- 2, the Live/Work sub-area, is designed to provide for a transition between the higher intensity mixed-use area on the north side of the street and residential uses on Walnut Street. This sub-area will provide for employment opportunities in conjunction with a dwelling. WC-3, the Residential sub-area, is designed to provide for a variety of residential uses including single-family, and townhouses. This sub-area permits multi-family developments and non-residential uses on the first floor frontage along College Street with the approval of a conditional use permit.

College Street Zoning Districts
04/11/13

WC- 1 Mixed-Use Sub-Area District

Permitted Uses

A. Office Use Group (this use group would include Medical and Dental clinics)
B. Retail Sales Use Group (this use group would include pet stores)
C. Personal Services Use Group (this use group would include pet grooming)
D. Eating and Drinking Establishments Use Group
E. Automobile Service Garages, including body and fender repair and paint shops if a legally conforming use at the time of the passage of this ordinance provided a Conditional Use Permit is obtained for any expansion of said use.
F. Churches and other places of worship, including parish houses and Sunday Schools, but excluding overnight shelters.
G. Commercial Gardens and/or Farmers Market
H. Bed and Breakfast
I. Colleges, Universities and Business Colleges
J. Funeral Homes and Mortuaries, excluding crematoriums
K. Educational, cultural, public or nonprofit institutions such as museums, art galleries and libraries
L. Community centers, nonprofit
M. Upholstery Shops
N. Glass and Mirror Sales
O. Single-family-detached dwellings
P. Single-family-semi-detached dwellings, such as patio-court homes and twin houses
Q. Duplexes
R. Townhouses
S. Multi-family dwellings

Use Limitations

A. All activities and permitted uses except for the following shall be conducted entirely within a completely enclosed building.
    1. Occasional outdoor sales on private property
    2. Off-street parking and loading facilities
    3. Outdoor eating and drinking facilities

B. All uses shall operate in accordance with the noise standards contained in *Section 6-1500, Noise Standards*.

C. No use shall emit an odor that creates a nuisance as determined by *Chapter 2A, Article X, Springfield City Code.*

Bulk and Intensity of Use Restrictions

A. Maximum structure height:
   1. Two and one-half (2 ½) stories or thirty-five (35) feet above the finished street grade.
   2. Maximum of four (4) stories, or fifty-five (55) feet above the finished street grade with the approval of a Conditional Use Permit in accordance with *Section 3-3300, Conditional Use Permits*.
B. Maximum density for residential uses shall not exceed twenty-nine (29) dwelling units per acre.
C. Yard requirements
   1. Front yard: None
   2. Side yard: None
   3. Rear yard: None

D. Maximum building coverage (including accessory buildings): Ninety (90) percent

Open Space Requirements

A. Minimum open space: Not less than ten (10) percent of the gross site area shall be devoted to open space unless modified in accordance with *Subsection 6-1215*. Open space shall not include areas covered by buildings, structures, parking, loading and other paved areas and internal streets or areas containing plants for display or sale. Open space shall contain living ground cover and other landscaping materials.

B. Maximum impervious surface: The combined area occupied by all main and accessory buildings or structures, parking, loading and other paved areas and any other surfaces which reduce and prevent absorption of stormwater shall not exceed ninety (90) percent of the total area unless modified in accordance with *Subsection 6-1215*.

Design Requirements

A. A site plan meeting the requirements of *Section 3-3000*, Site Plan Review, shall be submitted and approved.

B. A landscape plan meeting the requirements of *6-1300, Off-Street Parking and Loading Area Designs Standards*, shall be submitted and approved.

C. Refuse storage areas shall be screened from view in accordance with *Section 6-1000, Screening and Fencing*.

D. Mechanical and electrical equipment, including air conditioning units shall be screened from view in accordance with *Section 6-1000, Screening and Fencing*.

E. Lighting shall be designed to reflect away from any adjacent residential area and in accordance with *Section 6-1400, Lighting Standards*.

F. Accessory buildings and structures shall meet the requirements of *Section 5-1000, Accessory Structures and Uses*. (G.O. 5425, 11/15/04)

G. The maximum length of the frontage of any building along College Street shall not exceed one-hundred (100) linear feet. The length of a building may exceed one-hundred (100) feet with the approval of a Conditional Use Permit if it can be shown the design of the building incorporates the scale and other features consistent with the intent of this District and the College Street Corridor Plan.

H. Facades that face streets or connecting pedestrian frontage that are greater than twenty-five (25) feet in length shall be subdivided and proportioned using at least one or more of the following features: windows, entrances, arcades, arbors, awnings (over windows or doors), changes in color or materials, distributed along the façade at least once every twenty-five (25) feet. Site plan elevations of buildings shall be approved by the Administrative Review Committee.

Bufferyard Requirement:

No

Parking Requirements

There shall be at least one (1) off-street parking space for each dwelling unit.

College Street Zoning Districts
05/09/13

WC-2 Live/Work Sub-Area District

Purpose

A live/work is a business conducted within a dwelling unit by occupants of the dwelling unit. A live/work is distinguished from a home occupation primarily in that a live/work use can include employees who are not residents of the home and involve a greater number of customers.

Live/Work Standards

Development within this district shall comply with the Live/Work Unit provisions of the International Building Code.

Live/Work Unit: A dwelling unit or sleeping unit in which a significant portion of the space includes a nonresidential use that is operated by the tenant.

Commercial Vehicles: Commercial vehicles accessory to the business activity may be kept at the dwelling site provided off-street parking for the vehicles can be accommodated on site.

Offsite Effects: No live/work use activity shall result in offsite dust, electrical Interference, fumes, gas, glare, light, noise, odor, smoke, toxic/hazardous materials, vibration, or other hazardous or nuisances as determined by the Director of Building Development Services.

Signage: Signage shall be in accordance with *Section 5-1400, Signs*.

Permitted Uses

A. Art and craft work such as ceramics, painting, photography, sculpture, woodwork, and similar cottage industries that may involve minor use of hazardous or flammable substances as regulated by the International Building Code and the International Fire Code; or operations which generate noise, dust, or odors provided they are determined to be compatible with the surrounding land uses.

B. Office uses by architects, attorneys, consultants, engineers, writers and owners of electronic commerce businesses, computer programming and data processing, and similar uses.

C. One-on-one and group services such as music, art, and dance lessons, tutors, licensed counseling and massage therapy, etc.

D. Tailoring, sewing, washing and ironing

E. Churches and other places of worship, including parish houses and Sunday Schools, but excluding overnight shelters.

F. Direct sale product distribution (Amway, Avon, Tupperware, etc.)

G. Furniture refinishing/antique restoration

H. Hair salons and day spas

I. Mail order, not including retail sales from site.

J. Renting sleeping rooms and serving meals to not more than two (2) persons not members of the family occupying the dwelling unit provided one (1) off-street parking space is provided for each person.

K. Telephone answering services

L. “Work at home” activities where employees of a business, located at another location, perform work for the business in their own residence, provided all physical contact between the business and the employee occurs at the place of business and not the residence, other than the initial installation of any equipment or other work facilities. The work activities of the employee shall conform with all other requirements of this District.

M. Other live/work uses determined by the Administrative Review Committee to be of a similar and compatible nature to those uses described herein.

N. Single family detached dwellings

O. Single family semi-detached dwellings, such as patio court homes and twin houses

P. Accessory apartments in owner-occupied single family detached dwellings, in accordance with *Section 5-2400, Accessory Apartments*.

Q. Accessory Uses, as permitted by *Section 5-1000, Accessory Structures and Uses*.

R. Noncommercial, not-for-profit residential neighborhood facilities, including indoor and outdoor recreational facilities, community centers, offices of property owners associations and maintenance facilities operated by a neighborhood or community organization or property owners association in accordance with the provisions of *Section 5-2700, Noncommercial Not-for-Profit Neighborhood Facilities*. (G.O. 4759, 11/10/97)

S. Townhouses.

T. Zero-lot-line construction, in accordance with Section 3-3200, Zero-Lot-Line Construction.

U. Any use that is existing at the time this ordinance is adopted and is a permitted use within the Live/Work District can continue as a stand-alone use on the lot provided that a Conditional Use Permit is obtained for any expansion of said use.

<u>Conditional Uses</u>

A. Adaptive use of non-residential structures in accordance with *Subsection 3-3310.B.4*.

B. Bed and breakfasts in accordance with *Subsection 3-3310.B.2*.

C. Stand- alone non-residential use. Any of the permitted uses within this district may be permitted as a stand-alone use provided a Conditional Use Permit is approved in conformance with Section 3-3310.

Use Limitations

A. There shall be a separate platted lot of record for each single family semi-detached or townhouse dwelling unit.

B. All uses shall operate in accordance with the noise standards contained in *Section 6-1500, Noise Standards*.

C. No use shall emit an odor that creates a nuisance as determined by *Chapter 2A, Article X, Springfield City Code*.

D. Refuse storage areas shall be screened from view in accordance with *Section 6-1000, Screening and Fencing*.

E. All activities and permitted uses except for the following shall be conducted entirely within a completely enclosed building:

    1. Occasional outdoor sales on private property.
    2. Off-street parking and loading facilities.
    3. Outdoor eating and drinking facilities.

Lot Size Requirements

A. Minimum lot area:

    1. Single-family-detached dwelling: Five thousand (5,000) square feet.
    2. Each single-family-semi-detached dwelling on a separate platted lot: Three thousand seven hundred fifty (3,750) square feet.
    3. Each townhouse on a separate platted lot:
        a. End lots: Four thousand (4,000) square feet
        b. Interior lots: Three thousand (3,000) square feet
    4. All other uses: Seven thousand five hundred (7,500) square feet.

B. Minimum lot width:

    1. Single-family detached dwellings: Forty-five (45) feet
    2. Townhouses:
        a. End lots: Forty (40) feet
        b. Interior lots with driveway in front yard: Thirty (30) feet
        c. Interior lots without driveway in front yard: Twenty-four (24) feet.

3. Single-family-semi-detached dwelling units: Thirty (30) feet.
4. All other uses: Forty-five (45) feet.

C. Minimum lot depth: Eighty (80) feet

Bulk and Open Space Requirements

A. Maximum structure height:

Thirty-five (35) feet or two-and-one-half (2 ½) stories above the finished street grade.

B. Minimum yard requirements:

1. Front yard: Fifteen (15) feet. The front yard setback maybe reduced below the minimum required if a conditional use permit is approved in accordance with *Section 3-3300, Conditional Use Permits*, or an approved preliminary plat in accordance with the *City's Subdivision Regulations*.
2. Side yard: None.
3. Rear yard: Ten (10) feet

C. Maximum building coverage (including accessory buildings): Ninety (90) percent

D. Minimum Open Space: Not less than ten (10) percent of the total lot area shall be dedicated to open space including required yards and bufferyards unless modified in accordance with *Subsection 6-1215*. Open space shall not include areas covered by buildings, structures, parking areas, driveways and internal streets. Open space shall contain living ground cover and other landscaping materials.

E. Maximum Impervious Area: The combined area occupies by all main and accessory buildings or structures, parking areas, driveways and any other surfaces which reduce and prevent absorption of storm water shall not exceed ninety (90) percent of the total lot area unless modified in accordance with *Subsection 6-1215*.

Design Requirements

A. A site plan meeting the requirements of *Section 3-3000, Site Plan Review*, shall be submitted and approved for three or more townhouse dwelling units, live/work uses and all non-residential uses.

B. A plot plan meeting the requirements of *Subsection 3-1103* shall be submitted and approved for all single-family-detached and single-family-semi-detached dwellings.

C. A landscaping plan meeting the requirements of *6-1300, Off-Street Parking and Loading Area Design Standards* shall be submitted and approved for structures containing three or more townhouse dwelling units, live/work uses and all non-residential uses.

D. Storage of maintenance or other equipment incidental to any permitted or conditional use except a single-family-detached and single-family-semi-detached dwellings shall be screened from view in accordance with the provisions of *Section 6-1000, Screening and Fencing*.

E. The maximum length of any cluster of townhouse dwelling units shall not exceed six (6) units, or two hundred (200) linear feet.

F. Facades that face streets or connecting pedestrian frontage that are greater than twenty-five (25) feet in length shall be subdivided and proportioned using at least one or more of the following features: windows, entrances, arcades, arbors, awnings (over windows and doors), changes in color or materials, distributed along the façade at least once every twenty-five (25) feet. Site plan elevations of the building shall be approved by the Administrative Review Committee.

G. All off-street parking lots for permitted live/work uses and non-residential uses shall be screened from all residential uses in residential districts in accordance with the provisions of *Section 6-1000, Screening and Fencing.*

H. Required front yards shall be landscaped with grass, ground cover, plants, shrubs, or trees. Decorative landscaping materials such as rock, bark and mulch are also permitted. Impervious surfaces required in front yards shall be minimized and, unless otherwise meeting the provisions of *Subsection 6-1302*, shall be limited to driveways leading to off-street parking areas located outside

the required front yard and walkways necessary for access to structures on the property. Circular driveways are permitted if sufficient frontage is available and if approved by the Traffic Engineer. (G.O.5355, 03/15/04)

I. Accessory buildings and structures shall meet the requirements of *Section 5-1000, Accessory Structures and Uses*. (G.O. 5425, 11/15/04)

Bufferyard Requirements

None

Parking Requirements

There shall be at least one (1) off-street parking space for each dwelling unit.

College Street Zoning Districts
04/11/13

WC-3 Residential Sub-Area District

Permitted Uses

A. Single-family-detached dwellings

B. Single-family-semi-detached dwellings, in accordance with *Section 3-3100, Cluster Developments*.

C. Accessory apartments in owner-occupied single-family-detached dwellings, in accordance with *Section 5-2400, Accessory Apartments*.

D. Accessory uses, as permitted, as permitted by *Section 5-1000, Accessory Structures and Uses*.

E. Churches and other places of worship, including parish houses and Sunday schools, but excluding overnight shelters.

F. Cluster subdivisions, in accordance with Section 3-3100, Cluster Subdivisions.

G. Community Gardens without retail or wholesale sales on-site in accordance with the performance standards of Section 5-3000, Community Gardens (G.O. 5843, 11/9/09)

H. Duplexes

I. Group homes, residential, in accordance with *Section 5-2500, Residential Group Homes*.

J. Home occupation uses, as permitted by *Section 5-1100, Home Occupations*.

K. Noncommercial, not-for-profit residential neighborhood facilities, including indoor and outdoor recreational facilities, community centers, offices of property owners associations and maintenance facilities operated by a neighborhood or community organization or a property owners association in accordance with the

provisions of *Section 5-2700, Noncommercial Not-For-Profit Neighborhood Facilities*. (G.O. 4759, 11/10/97)

L. Police and fire stations.

M. Public and private parks, and playgrounds, excluding golf courses, miniature golf courses and driving ranges.

N. Temporary Uses, as permitted by *Section 5-1200, Temporary Uses*.

O. Townhouses

P. Zero-lot-line construction, in accordance with *Section 3-3200, Zero-Lot-Line Construction*.

Conditional Uses

A. Adaptive use of non-residential structures in accordance with *Subsection 3-3310.B.4.*

B. Bed and breakfasts in accordance with *Subsection 3-3310.B.2*.

C. Clubhouses associated with any permitted use.

D. Community Centers, non-profit. (G.O. 5882, 7/26/10)

E. Non-residential uses on the first floor frontage of buildings that front on College Street provided there is at least one (1) residential unit above or behind the non-residential use. Non-residential uses include the Office, Retail Sales, Personal Services and Eating and Drinking Establishments Use Groups.

F. Multi-Family dwellings provided it can be shown the unusual configuration of the lot will support a greater density without overpowering the surrounding development and the proposed development conforms to the intent of the College Street Corridor Plan.

Use Limitations

A. There shall be a separate platted lot of record for each single-family-semi-detached or townhouse dwelling unit.

B. All uses shall operate in accordance with the noise standards contained in *Section 6-1500, Noise Standards*.

C. No use shall emit an odor that creates a nuisance as determined by *Chapter 24, Article X, Springfield City Code*.

D. All activities and permitted uses except for the following shall be conducted entirely within a completely enclosed building:

    1. Occasional outdoor sales on private property
    2. Off-street parking and loading facilities
    3. Outdoor eating and drinking facilities

Lot Size Requirements

A. Minimum Lot Area:

    1. Single-family-detached dwellings: Five-thousand (5,000) square feet.
    2. Duplexes: Seven-thousand-five-hundred (7,500) square feet
    3. Each single-family-semi-detached dwelling on a separate platted lot: Three-thousand-seven-hundred-fifty (3,750) square feet.
    4. Each townhouse on a separate platted lot:

        a. End lots: Four-thousand (4,000) square feet.
        b. Interior lots: Three-thousand (3,000) square feet.

    2. All other uses: Seven-thousand-five-hundred (7,500) square feet.

B. Minimum lot width:

    1. Single-family-detached and duplex dwellings and residential group homes: Forty-five (45) feet.

    2. Townhouses

a. End lots: Forty (40) feet
b. Interior lots with driveway in front yard: Thirty (30) feet
c. Interior lots without driveway in front yard: Twenty-four (24) feet

3. Single-family-semi-detached dwelling units: Thirty (30) feet.

4. All other uses: Forty-five (45) feet

C. Minimum lot depth: Eighty (80) feet.

Bulk and Open Space Requirements

A. Maximum structure height:

Two and one-half (2 ½) stories or thirty-five (35) feet above the average elevation of the depth of the lot.

B. Minimum yard requirements:

1. Front yard: None, provided there is at least thirty (30) feet from the centerline of College Street.

2. Side yards: None.

3. Rear yard: Minimum fifteen (15) feet.

C. Maximum building coverage (including accessory buildings): Ninety (90) percent.

D. Minimum open space: Not less than ten (10) percent of the total lot area shall be devoted to open space including required yards and bufferyards unless modified in accordance with *Subsection 6-1215*. Open space shall not include areas covered by buildings, structures, parking areas, driveways and internal streets. Open space shall contain living ground cover and other landscaping materials.

E. Maximum impervious area: The combined area occupied by all main and accessory buildings or structures, parking areas, driveways and any other surfaces which reduce and prevent absorption of storm water shall not exceed ninety (90) percent of the total lot area unless modified in accordance with *Subsection 6-1215*.

Density Requirements

A. The maximum density for multi-family development shall be limited to eighteen (18) dwelling units per acre.

Design Requirements

A. A site plan meeting the requirements of *Section 3-3300, Site Plan Review*, shall be submitted and approved for three or more townhouse dwelling units and all non-residential uses.

B. A plot plan meeting the requirements of *Subsection 3-1103* shall be submitted and approved for all single-family-detached, duplex, and single-family-semi-detached dwellings.

C. A landscaping plan meeting the requirements of *6-1300, Off-Street Parking and Loading Area Design Standards*, shall be submitted and approved for structures containing three or more townhouse dwelling units.

D. Storage of maintenance or other equipment incidental to any permitted or conditional use except a single-family-detached, duplex, and single-family-semi-detached dwellings shall be screened from view in accordance with the provisions of *Section 6-1000, Screening and Fencing*.

E. The maximum length of any cluster of townhouse dwelling units shall not exceed six (6) units, or two hundred (200) linear feet.

F. All off-street parking lots for permitted non-residential uses shall be screened from all residential uses in residential districts in accordance with the provisions of *Section 6-1000, Screening and Fencing*.

G. Refuse storage areas for permitted non-residential uses shall be screened from view in accordance with *Section 6-1000, Screening and Fencing*.

H. Mechanical and electrical equipment, including air conditioning units, shall be screened from view in accordance with *Section 6-1000, Screening and Fencing*.

I. Accessory buildings and structures shall meet the requirements of *Section 5-1000, Accessory Structures and Uses*. (G.O. 5425, 11/15/04)

Bufferyard Requirements

None.

Parking Requirements

There shall be at least one (1) off-street parking space for each dwelling unit.

DRAFT: 05-03-2012
Section 4-2800. LWO – Live/Work Overlay District.

4-2801. **Purpose.** This district is an overlay district intended to be used in combination with any residential zoning district that permits single-family, duplex, townhouse or other types of dwelling units where the work area can be established on the first or main floor. The primary purpose of this district is to permit Live/Work Units as defined and regulated by the adopted *International Building Code*. Specific standards and conditions are established when a specific Live/Work Overlay District is approved.

4-2802. **Application.** The Live/Work Overlay District is intended to be applied to a residential neighborhood or sub-area of a neighborhood and not to an individual residential lot.

4-2803. **Permitted Uses.** In addition to the uses allowed in the residential district with which this district is combined, Live/Work Units are permitted. The uses permitted in the work area of the Live/Work Units shall be established when the specific Live/Work Overlay District is approved

4-2804. **Limitations.** The following limitations may be established for the live/work unit that are more restrictive than the limitations established by the adopted *International Building Code.*

A. Maximum floor area of the live/work unit;

B. Maximum percentage of nonresidential floor area; and

C. Maximum number of nonresidential workers or employees permitted to occupy the nonresidential area at any one time.

4-2805. **Signage.** One sign may be permitted for each live/work unit.

A. The following sign requirements shall be established when the specific Live/Work Overlay District is approved:
   1. Type of sign (detached or attached);
   2. Maximum effective sign face area; and
   3. Maximum sign height.

B. Signs shall not be illuminated.

C. Signs may be required to be removed during times of day when the business is not open.

D. Signs with an effective sign face area of six (6) square feet or less shall not require a sign permit

4-2806. **Mapping.** Upon approval, a Live/Work Overlay District shall be noted on the Official Map by the base zoning district designation with the addition of "-LWO."

ETHICAL CONSIDERATIONS AND RULES OF PROCEDURE

PLANNING AND ZONING COMMISSION

SPRINGFIELD, MISSOURI

RULES OF PROCEDURE

PLANNING AND ZONING COMMISSION

The following rules of procedure are adopted by the Planning and Zoning Commission to facilitate the performance of its duties and the exercising of its powers, as outlined in Article XI of the City Charter of the City of Springfield, Missouri.

Section 1.0 Officers.

1.1 Selection. During the first meeting in January of each year, the Commission shall select from the membership a Chairman and a Vice Chairman. The Director of Planning and Development shall serve as Executive Secretary of the Commission. (10-8-98)

1.2 Tenure. The Chairman and Vice Chairman shall take office at the first meeting in January immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office. (10-8-98)

1.3 Duties. The Chairman shall preside at all meetings, appoint committees, and perform such other duties as may be ordered by the Commission.

The Vice Chairman shall act in the capacity of the Chairman in his absence and in the event the office of the Chairman becomes vacant, the vice Chairman shall succeed to this office for the unexpired term.

The Executive Secretary shall execute documents in the name of the Commission, perform the duties hereafter listed and shall perform such other duties as the Commission may determine.

In the absence of the Director, the Zoning Administrator shall act in his capacity as Executive Secretary.

Section 2.0 2.1 Regular Meetings. Meetings of the Commission shall be held at 7:00 PM in Room 315, City Hall. The first meeting of the month shall be held on the third Thursday preceding the last City Council meeting of each month. A second meeting shall also be held each month. The Commission shall determine the meeting dates for the following calendar year at their first meeting in December. The second meeting of each month shall normally exclude from its agenda subdivision plats, zoning district amendment requests, use permits, planned unit developments, easements, and vacations. Items on the table and items that in the discretion of the Executive Secretary warrant expedient action may be placed on the

agenda of the second meeting. Agendas for the regular meetings shall be given by the Executive Secretary to the members of the Commission at least seventy-two (72) hours prior to such meetings.

2.2 Special Meetings. Special meetings shall be called at the request of the Chairman, or at the request of five members of the Commission. Notice of special meetings shall be given by the Executive Secretary to the members of the Commission at least forty-eight (48) hours prior to such meeting and shall state the purpose and time of the meeting.

2.3 Public Hearings. All regular and special meetings, hearings, records, and accounts shall be open to the public. After presentation of testimony and exhibits at public hearings, the public hearing of the Commission shall be declared at an end by the Chairman, so that the Commission may make its decisions.

2.4 Quorum. Five members shall constitute a quorum for the transaction of business.

2.5 Action by the Commission. Five votes shall be required to either approve or disapprove any action on which the Commission has final authority and to approve or amend any plan or policy. In the event the five votes cannot be obtained, the item is automatically tabled and voted on at the Commission's next scheduled meeting. If five votes are not obtained after three such votes, the item shall be deemed denied. (Subdivisions, variances, relinquishments, vacations)

On actions on which the Commission acts as a recommending body to the City Council or to any other governmental body, a majority of those present at the time the vote is taken shall prevail. In the event of a tie vote, the item shall be automatically tabled.

2.6 Order of Business, Agenda. The Secretary shall prepare an agenda for each meeting and the order of business therein shall be as follows:

(a) Roll Call

(b) Approval of Minutes

(c) Communications

(d) Finalization and Approval of Consent Items

(e) Unfinished Business

(f) Hearings

  (1) Zoning cases

  (2) Planned developments

(3) Use permits

(4) Other public hearings

(5) Subdivisions

(6) Other business

(g) Reports

(h) New Business

(i) Adjournment

The Secretary shall place items that do not require a public hearing such as renewal of subdivision plats, relinquishments of easements, offers to dedicate and other similar requests, under Consent Items. Any item placed under Consent Items may be removed from that portion of the agenda and moved to the appropriate portion for discussion, debate, and vote upon the request of a citizen, Commission member or Executive Secretary. Removal of any consent item shall be done prior to the Finalization of Consent Items. After the Consent Items are finalized, no item of business shall be removed there from except by temporary suspension of Commission's Rules of Procedure. A consent item shall not be discussed unless the item is removed as stated above. A single vote by the Commission shall recommend for approval or denial all Consent items. (7-1-99)(9-9-99)

2.7 Motions. Motions shall be made orally and such motions shall be restated by the Chair before a final vote is taken, and all oral motions shall be recorded by the Executive Secretary for the minutes of the Commission.

2.8 Staff Reports. At all hearings, the report and recommendations, if any, of the staff on the matter involved shall be presented to the Commission before action on any item is taken.

2.9 Commission Action. Action by Commission on any matter on which a public hearing is held shall not be taken until the hearing has been concluded.

2.10 Parliamentary Procedures. Parliamentary procedure in Commission meetings shall be governed by "Roberts Rules of Order, Newly Revised" except as specifically modified herein.

2.11 Recommendations Forwarded to Council. (7-1-99)

(a) Items receiving positive Commission recommendations shall be automatically forwarded to City Council for final action. It shall be the duty of the Executive Secretary, provided all notice requirements are satisfied, to place such items on the City Council agenda no later than the third Council meeting following the Commission meeting at which action is taken.

(b) Items receiving recommendations of disapproval by the Commission will not be forwarded to City Council unless the applicant so requests in writing.

Section 3.0 Duties of the Executive Secretary

3.1 Minutes. The Executive Secretary shall keep the minutes of each meeting of the Commission.

3.2 Communications, Petitions, etc. All communications, petitions, and reports shall be addressed to the Commission and delivered or mailed to the Executive Secretary.

Section 4.0 Hearings.

4.1 Regular Hearings. The Planning and Zoning Commission shall hold a public hearing on all proposed changes in classification. Notice of the public hearing shall be given in accordance with the requirements of the Springfield City Code.

(10-8-98)

4.1.1 Personal Notice. In addition to the above forms of notice of public hearing, notice of such hearing shall also be provided by regular mail no later than ten (10) days prior to the hearing to the owners of real property, as shown on the records of the County Assessor, adjacent to, or within 185 feet of the property to be rezoned. Reliance upon the information submitted by the applicant shall be deemed in compliance with this paragraph, and failure to give notice by mail or to actually receive such notice by mail without a clear showing of prejudice shall not be grounds to invalidate actions for which notice was to be provided.

4.1.2 Applicant. The applicant, or person acting in his behalf for consideration of items before the Commission, shall appear at the scheduled public hearing. Failure to appear on requests for a change of zoning classification shall not bar the Commission from acting on the item. Commission may, at its discretion, conduct the public hearing as scheduled, taking public comment from those in attendance. Following public comment from those present, the Commission shall continue the public hearing for one meeting to allow the applicant to comment. If no one is present to make comments on the change of zoning classification, the public hearing shall be continued for one meeting. Commission may make its recommendation on change of zoning classification following the close of the public hearing at the following meeting. Agenda items not involved a change in zoning classification may be acted upon at the discretion of the Commission in the absence of the applicant. In the event the Commission does not elect to take action, the item shall be automatically continued once, and thereafter the Commission may act on the item. (10-8-98)

4.1.3 Requests for Tabling. Any applicant may request that the Commission table their application by submitting such request in writing to the Executive Secretary at least forty-eight (48) hours in advance of the scheduled meeting at which the applicant is to be considered. If a request is made less than forty-eight (48) hours in advance of such meeting, the Commission may, upon good cause shown, table such item upon its own motion. (10-8-98)

4.1.4 Removal From Table by Applicant. If an applicant desires to have an application removed from the table, the applicant shall notify the Executive Secretary in writing at least two (2) weeks prior to the meeting date. If tabled to a specific meeting date, the applicant does not have to request removal for that date. The Commission shall determine at the meeting whether or not it is appropriate to remove the application from the table as requested by the applicant. (7-1-99)

4.2 Recommendations. After such hearings, the Planning and Zoning Commission may, within its discretion, make one or more recommendations, together with pertinent principal reasons, in connection with each proposed change in zoning classification. The recommendations will be in one of the following forms:

(a) Recommend against the change in zoning;

(b) Recommend the change in zoning;

(c) Recommend the change in zoning for such area;

together with its recommendation as to requirements for the paving of streets, alleys, and sidewalks; means of ingress and egress to the public streets, provisions for drainage, parking spaces and street layouts, and protective screening in open spaces, and any other requirements which, within the discretion of the Planning and Zoning Commission, will protect adjacent property and secure substantially the purpose and intent of the Zoning Ordinance.

The recommendation of the Planning and Zoning Commission shall expire and cease to be valid after ninety (90) days shall have passed immediately following the date it was made unless a written request from the applicant is received by the Executive Secretary within said ninety (90) days requesting the application be forwarded to City Council. Recommendations forwarded to City Council in this manner shall not expire, but shall continue to be valid so long as the case remains pending on the City Council agenda, active, or tabled. (11-4-93) (7-1-99)

4.2.1 Reconsideration of Cases. The Planning and Zoning Commission may reconsider a case which it has previously denied, only when an applicant aggrieved by a final negative vote of the Commission delivers a written request for reconsideration to the Commission, as follows:

(a) The request shall state that there is new or additional evidence not previously considered by the Commission which pertains to issues which caused the Commission to vote negatively on the case. The request shall outline the substance of the new or additional evidence, and shall be delivered to the Executive Secretary of the Planning and Zoning Commission no later than 30 days after the date of the Commission's negative vote, and no later than 20 days prior to a regularly scheduled meeting of the Commission.

(b) Based solely on the reasons stated in the written request for reconsideration and testimony limited to the matters stated in the request for reconsideration, Commission may vote to allow reconsideration only upon an affirmative motion by a Commission who had previously voted against applicant's case, passed by a majority of the Commission. If reconsideration is approved, the case shall be heard only after full public notification in the same form and manner as would pertain to a new case. The applicant shall bear the costs of all publications and notifications. (6-29-92)

4.3 Report of Action Taken. Each such recommendation made by the Planning and Zoning Commission, whether orally or by other methods, shall be reported by the Secretary of said Commission to the City Council, by applicable administrative procedure, and the applicant notified of the action of the Planning and Zoning Commission. The Executive Secretary of the Planning and Zoning Commission shall set up and maintain a separate file for each application received and all records and files herein provided shall be permanent and official files of the City of Springfield.

4.4 Report of Action Taken - When Filed. The Planning and Zoning Commission shall take action upon all matters before it following the close of the advertised public hearing upon such matter within two (2) regular meetings of the Commission at which such matters may be considered by the Commission. An applicant to the Commission may waive this provision by filing in writing, a request that his matter be tabled or by requesting in person or by legal representative, that this matter be tabled, which personal request shall be followed by an identical request in writing. If the Commission tables a matter upon such a request, Commission is required to take action upon such matter following bringing such matter off the table within two (2) regular meetings of the Commission at which such matter may be considered. All matters tabled for a period of 180 days without substantive amendment or final action shall be denied and removed from the agenda without further action by the Commission. The Commission shall file the report of action by it with the appropriate persons within twenty (20) days following the day action was taken. In all cases, failure to meet the requirements of this section shall cause a matter to be considered approved by the Commission as submitted.

4.5 Hearing Exhibits. Any part to any proceeding before the Commission shall, insofar as it may be possible, prepare and submit in advance for hearing, any exhibits proposed to be used in the proceeding, which said submission shall be made to the Commission by filing the same in the office of the Planning and Development Department of the City of Springfield. The applicant and other proponents shall submit exhibits at least ten (10) days in advance of the hearing; the Planning and Development Department, other governmental agencies and departments, and opponents of the applicant's request shall submit exhibits at least five (5) days in advance of the hearing. Such exhibit shall be identified as to the party who intends to sponsor the exhibit and shall be consecutively numbered or lettered. All material so submitted shall be deemed a public record and shall be open for inspection and copy by any person whomsoever. Any exhibit not so filed shall be admitted by the Commission only upon a clear showing as determined by a majority vote of the Commission that such filing was not in good faith reasonably possible.

4.6 Hearing Testimony. It shall be the burden of the applicant in any case before the Commission to present sufficient facts and testimony that an affirmative decision by the Commission in favor of the applicant will be based upon substantial evidence upon the whole record of proceedings before the commission. Nothing shall prohibit any member of the Commission inquiring of any witness or party at any time during the proceedings upon any fact of matter relating to the proceedings, but it shall not be the duty of the Commission to supply any deficiencies in or to seek to provide facts in any proceedings.

4.7 Manner of Addressing Commission; Time limit. Each person addressing the Commission shall step up to the podium, give his name and address for the record, and unless further time is granted by the Commission, shall limit his address to five (5) minutes. All remarks shall be addressed to the Commission as a body and not to any member thereof. No person, other than the Commission and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Commission without the permission of the Chairman. No question shall be asked of a member of the Commission except through the presiding officer.

4.8 Decorum.

(a) No person shall make personal, impertinent, or slanderous remarks, nor otherwise disturb the order and decorum of any Commission meeting.

(b) No person shall carry or display a sign inside the room wherein the Commission is meeting, or any other similar type of written communication which is carried or displayed, except nothing contained herein shall be construed to prohibit a person from using visual materials when presenting a matter to the Commission. The Commission hereby determines that signs or displays in the meeting room may obstruct the view of citizens, can cause injury, and affect the decorum of Commission meetings, and are hereby prohibited for such reasons. The sergeant-

at-arms shall inform citizens when signs or displays violate this section and shall remove the signs or displays from the meeting room or may cause citizens carrying such signs or displays to be removed from the meeting room.

(c) The sergeant-at-arms, at the direction of the Chairman, shall remove any person violating the provisions of this section. The Chief of Police, or such members of the Police Department as he may designate, shall be sergeant-at-arms of the Commission meetings. He shall carry out all orders and instructions given by the Chairman for the purpose of maintaining order and decorum at the Commission meetings.

Section 5.0 Standing Committees

5.1 Council Liaison Committee shall be composed of not less than three (3) members. Its duties shall be to communicate with the Council regarding plans, policies, procedures, work programs, budget requests, and other items of mutual interest.

5.2 Governmental Liaison Committee shall be composed of not less than three (3) members. Its duties shall be to communicate with the Greene County Planning Commission and other local governments regarding plans, policies, programs, regulations, and other matters of mutual interest.

5.3 Special Committees. From time to time and as circumstances warrant, the Commission may establish special committees to assist the Commission in the conduct of its business.

5.4 Appointment: Reassignment. The Chairman shall appoint all committee members and shall designate one member as chairman, for one year, expiring with the calendar year, and until his successor has been appointed and qualified. The Chairman may reassign members or re-designate chairmen, when, in his discretion, the situation requires anything hereto, to the contrary notwithstanding.

5.5 Meetings of Committees. All committees shall meet at the call of the Chairman, provided that the Chairman of this Commission shall request the chairman to call a special meeting of any committee at any time upon such notice as he may specify and in the event of noncompliance may issue the call in his name. The Executive Secretary shall issue notice of meetings at the request of the Chairman.

5.6 Quorum Ratification. A majority of the members appointed shall constitute a quorum of all committees. When it appears that a quorum may not be present at any committee meeting, the Chairman of this Commission may designate other members of this Commission as temporary members of such committee with full rights for that particular meeting. In the absence of a quorum, any member who was present, may join in making a recommendation to the Commission, and if, by so doing, a majority action results, same may be received; but such ratifying action shall be called to the attention of the Commission at the time of presenting same.

5.7 Cooperation with Interested Groups. When thought to be helpful, the Chairman of any Standing or Special Committee may request the Director to invite any interested party to appear before the Commission.

Section 6 on Ethics, discuss later on.

Section 7.0 Miscellaneous

7.1 Amendment to Rules of Procedure. The rules of procedure of this Commission shall be amended only with five (5) affirmative votes. Any proposed amendment or rescission of rules shall be voted upon only after the same has been reduced to writing, filed with the Secretary of the Commission and read at the regular meeting immediately preceding the meeting at which the same is voted upon. Debate on the proposed amendment or rescission shall be permitted at both the meeting where the proposed amendment or rescission was read and at the meeting where it is to be voted upon.

7.2 Forms. In all cases, the application shall contain the name, address, and telephone number of the applicant, the name and address of the record owner of property proposed to be rezoned, a plot plan with accompanying legal description of the property proposed to be rezoned and a list of all owners of real property, as shown on the records of the County Assessor, adjacent to, or within

185 feet of the property proposed to be rezoned.

Passed this 22nd day of April 1957.

Secretary

AMENDED:

CHARTER AND CODE PROVISIONS:

From the Charter:

__Section 15.6. Appointment and removal. – all boards

Except as otherwise provided in this Charter, members of advisory boards shall be appointed by the council or as otherwise provided herein or as provided in the ordinances establishing such advisory board, and all members of such board shall be removable by the council. Members of administrative boards shall be appointed by the city manager with the approval of the council; such approval shall not be given until a period of at least two weeks shall have elapsed after such appointment is made, and if the council shall take no action thereon for 30 days after such appointment is made, it shall be deemed approved. Members of such boards may be removed by the appointing officer at any time with the approval of the council; provided, that any member so removed shall, if he so requests, have a hearing by the council before such removal.

Section 11.1. Planning and zoning commission--Organization.

There shall be a city planning and zoning commission which shall consist of nine members, who shall be appointed by the council, none of whom shall hold any other public office or position in the city.

The city manager and mayor shall serve as ex-officio members of the commission. The commission shall elect its chairman from among the appointive members.

From the City Code:

DIVISION 1. GENERALLY

Sec. 2-161. Code of ethics.

(a) *Policy; objectives.*

(1) The public judges its government by the way board members conduct themselves in the posts to which they are appointed. The people have a right to expect every board member to conduct himself in a manner that will tend to preserve public confidence in and respect for the board on which he serves. Such confidence and respect can best be promoted if every board member will uniformly:

a. Treat all citizens with courtesy, impartiality, fairness and equality under the law; and

b. Avoid both actual and potential conflicts between his private self-interest and the public interest.

(2) To help board members achieve these goals is one of the objectives of the section.

(3) The other objective is based on the proposition that no person can serve two masters, nor should he attempt to do so. Therefore, this section proposes to relieve board members of the impossible task of judging themselves. Board members are encouraged to obtain an advisory opinion from the city attorney whenever there is any doubt as to the applicability of this section pursuant to provisions of this section and the Charter.

(b) *Definitions.* The following definitions shall apply to this section:

Administrative board means the park board, the airport board, the board of public utilities and the art museum board.

Board means any agency, board, body, commission or committee of the city where the appointments of members are made or approved by the city council, except appointments made to a state-authorized board, body, commission or committee.

Board member means members of all boards when the appointment is made or approved by the city council.

Financial interest means any interest which shall yield, directly or indirectly, a monetary or other material benefit to a board member.

Person means any person, firm, association, group, partnership or corporation, or any combination thereof.

Personal interest means any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.

(c) *Conflicts of interest.*

(1) The following provisions are applicable to only administrative boards (parks board, art museum board, airport board and board of public utilities). In addition to provisions of state law and the Charter, members of an administrative board shall not:

a. Grant or make available to any person any advantage or favor beyond that which it is the general practice to make available to the public at large.

b. Permit the use of publicly owned or supported property or services for the personal convenience or advantage of the board member or any other person except when it is the general practice of the board to make this available to the public at large or when it is the policy of the board to make this available for the use of public officials in the conduct of their official business.

(2) The following provisions are applicable to all boards, including administrative boards. In addition to provisions of state law and the Charter, no board members shall:

a. Without prior formal authorization of the board, disclose any confidential information concerning any official or employee, or any other person, or any property or governmental affairs of the board.

b. Fail to attend three consecutive meetings without a good reason.

c. Appear on behalf of private interests before the board on which the person is a member or represent private interests in any action or proceeding against the interests of the board.

d. Accept any valuable gift, whether in the form of service, loan, thing or promise, from any person who, to his knowledge, is interested directly or indirectly in any manner whatsoever in business dealings with the board on which the person is a member; or accept any gift, favor or thing of value that may tend to influence the member in the discharge of his duties; or grant in the discharge of his duties any improper favor, service or thing of value. Purchase of a meal for a board member shall not be a valuable gift. The prohibition against gifts or favors shall not apply to an occasional nonpecuniary gift, insignificant in value, or an award publicly presented in recognition of public service, or any gift which would have been offered or given if the person were not a board member.

(d) *Disclosure of interest.* A board member who has a financial or other personal interest in any matter shall disclose on the records of the board the nature and extent of such interest and may vote on such matter provided the member is not prohibited from voting by some other provision of law. This provision shall not apply if the board member disqualifies himself from voting.

(e) *Advisory opinions by city attorney.* Where any board member has a doubt as to the applicability of any provision of this section to a particular situation or as to the definition of terms used in this section, he may request from the city attorney an advisory opinion.

(f) *Ethics handbook.* The city council hereby approves the ethics handbook for the city board members, a copy of which is on file with the city clerk. A copy of the ethics handbook shall be provided by the city clerk to all prospective board members prior to their appointment to a city board. Board members shall be required to certify that they have read the ethics handbook and shall abide by its provisions. The city attorney is hereby authorized to keep the ethics handbook up to date by publishing therein any changes to state or city laws.

(g) *Interpretation.* In order to provide a plain English version of this section, the text of state law and city law has been paraphrased in the ethics handbook. The actual language of state or city law shall control over the plain English version.

(G.O. No. 4643, § 1, 9-16-1996)

Ethics Handbook:

Introduction:

Oath of office helps you and citizens to build trust. Each volunteer board member swears to an oath upon being appointed and agrees to uphold the obligations of the office. One is to avoid any "conflict of interest" that betrays public trust. Another is to conduct all the City's deliberations in public, except in rare exceptions provided specifically for by Missouri's open meetings law. Building public confidence in all that you do is as important as anything else you do.

Missouri's Conflict of Interest laws and the ordinances and policies of the City of Springfield protect you and the public. Simply put, avoid any decision or discussion that compromises your or the City's integrity in the eyes of the public. If it seems wrong, ask for advice.

Inadvertent, seemingly innocent, actions in government can be construed as intentional and harmful. *Perceptions* often can be as damaging as reality in the eyes of the public. Our goal in offering these guidelines is to avoid any hint of conflict that may be hurtful to you, your fellow board members, to our community and its citizens.

On the last page of this handbook is a statement you are asked to sign that says you understand and agree to uphold your commitment to the citizens of Springfield--and to yourself.

Common sense is the best guide, but when in doubt, ask for help.

Conflict of interest violations can be sensitive and even inadvertent. Common sense is a good guide. No handbook can anticipate every situation or question.

When in doubt, ask for the advice of the Law Department. Asking does not relieve you of obligation, but it offers professional help from those who know the law. By asking, you demonstrate good faith so long as you follow the advice you receive.

B. Advisory Boards

Advisory Boards give advice. They may also serve a judicial function, holding them to rules that apply to quasi-judicial bodies. These include the …; the Planning and Zoning Commission; ……

Rules that apply to Advisory Boards are as follows: No board member shall:

1. Accept money or *anything* of value in return for your action or inaction as a board member. See Subsection 105.452(1) Revised Statutes of Missouri (1994).
2. Use confidential information obtained as a board member to gain financially or to benefit a spouse, a dependent child, any business or business associate of anyone else. See Subsections 105-452(2) and (3), Revised Statutes of Missouri (1994).
3. Without prior formal authorization of the board, disclose any confidential information concerning any official or employee, or any other person, or any property or governmental affairs of the board. Springfield City Code Section 2-34(c)2.A.
4. Be paid in any way for any service in which the board member tries to influence a decision of the board during his or her term or for another year after the appointment ends. The one year limitation shall not apply to an adversarial proceeding or the preparation or filing of a public document. See Subsections 105.454(4) and (5) Revised Statutes of Missouri (1994).
5. Be paid in any way in office or after leaving office to influence any case or action of the board in which he or she participated personally. See Subsections 105.454(5),(6) Revised Statutes of Missouri (1994).
6. Discriminate in the performance of their duties against anyone because of their race, creed, color, national origin or ancestry, or because of their sex, age, disability or religion.
7. Close a public meeting or public record in violation of law. Meetings should be closed only after being advised to do so by an attorney for the City. See Sections 610.010 Revised Statutes of Missouri (1994), et seq.
8. Fail to attend three (3) consecutive meetings without a good reason. Springfield City Code Section 2-34(c)2.B.
9. Be a member of a committee or party that promotes the candidacy of anyone seeking City office. See Sections 15.5 and 16.5 of the City Charter.
10. Appear on behalf of private interests before the board on which you are a member; appear or represent private interests in any action or proceeding against the interests of the board. Springfield City Code Section 2-34(c)2.C.
11. Accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person who to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the board on which they are a member; or (1) accept any gift, favor or thing of value that may tend to influence you in the discharge of your duties, or (2) grant in the discharge of your duties any improper favor, service or thing of value. Purchase of a meal for a board member shall not be a valuable gift. The prohibition against gifts or favors shall not apply to an occasional nonpecuniary gift, insignificant in value, or an award publicly presented in recognition of public service, or any gift which would have been offered or given if he or she was not a board member. Springfield City Code Section 2-34(c)2.D.

C. Quasi-Judicial Boards

Several Boards decide cases and issues in public hearings. Their decisions become final unless they are appealed to a Missouri Court of Law. In some cases, these Quasi-Judicial Boards may actually rule on a matter or advise in other instances.

Boards that act in a judicial role include the Board of Adjustment; ...the Planning and Zoning Commission hearing requests for exceptions to the subdivision ordinance; .....

Special rules apply to these boards based on established law and court decisions. Simply, you are required to be unbiased; to decide cases based on facts presented; and to allow due process by notifying and hearing from all those involved. Paragraphs B.1 through B.11 are especially important.

WHEN DO I RECUSE MYSELF AS A COMMISSION MEMBER?

1. When you own property within 180 feet of property being rezoned

2. When you are on a board that creates a fiduciary duty in you to protect the organization that will be directly impacted by the zoning decision such as a company, neighborhood association or real estate trust. The fiduciary duty will conflict with duty as a commission member.

3. If you own the property being rezoned.

4. You are a decision maker for the applicant for rezoning.

5. You have a direct or indirect financial interest in the outcome of the case.

III. OBTAINING AN ADVISORY OPINION --

As a board member, you may ask for advice from the City Attorney's Office. Indeed, you are encouraged to ask for advice prior to acting or voting on any matter. You may even ask for advice prior to signing the certification on the last page of this handbook.

IV. PERCEPTION OF CONFLICT OF INTEREST –

After receiving advice, you may decide that a situation still creates a *perception* that a state law or City ordinance is being violated. If you think this is the case, you may choose not to vote. Or, you may disclose something you feel should be known before voting.

Remember that public *perceptions* may become reality. Use common sense. If you doubt your ability to vote objectively in a certain situation, don't do it. If you are present at a closed meeting that should be open, leave.

A board member shall abstain from participating and voting on any matter where the board member has a conflict of interest. If there is no conflict of interest but there may be a perception of a conflict of interest, a board member may vote if the member has disclosed in the record the nature of the conflict, otherwise the board member should abstain.

An example might be if you are employed by a company that has some matter pending before the board upon which you serve. No legal conflict may exist if you are not an officer of the company and will not benefit financially by your action. You may still want to abstain to avoid the *perception* of a conflict of interest.

If you decide to vote, it might be wise to disclose publicly your situation before voting. Even if you abstain, you may want to disclose your situation in the course of discussing the matter.

Members of Boards are encouraged to support the decision of the Board but if they take a position against the Board's position, they should do so as a private citizen and identify themselves as a private citizen.

Board members should recognize that they will be perceived by many people as representing the Board in other civic activities. Board members are encouraged to recognize this situation, and if you feel it necessary to speak to issues, to clearly establish that it is a personal opinion, and not given as a Board member.

A final point, however. These rules should not be an excuse to avoid voting on a difficult or controversial matter when appropriate. Courage is often required.

V. PENALTIES -

Penalties do apply for failure to comply with conflict of interest rules. They vary by law, however, and should be studied individually.. The City Council may choose to remove a person from office for failing to observe these rules.

You can be removed from office. Sunshine law violations? More severe.

SUNSHINE LAW:

BASICS: With few exceptions, all of your meetings will be in open session. Your e-mails between yourselves and citizens, or from citizens, are open and you should copy those to Ralph Rognstad as your secretary.

What would be closed? Some examples could be:

1. Attorney discussions – lawsuit pending or filed about some action taken.

2. Purchases of real estate where public knowledge would adversely impact the transaction.

3. Personnel action or discussion.

If something is to be closed as a meeting, staff will post it as closed and show it on your agenda.

Memoranda that are closed will be marked as confidential and privileged at the top.

Back to penalties:

610.027. Violations--remedies, procedure, penalty--validity of actions by governing bodies in violation--governmental bodies may seek interpretation of law, attorney general to provide

3. Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has knowingly violated sections 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount up to one thousand dollars. If the court finds that there is a knowing violation of sections 610.010 to 610.026, the court may order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously.

4. Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has purposely violated sections 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount up to five thousand dollars. If the court finds that there was a purposeful violation of sections 610.010 to 610.026, then the court shall order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing such a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously.

5. Upon a finding by a preponderance of the evidence that a public governmental body has violated any provision of sections 610.010 to 610.026, a court shall void any action taken in violation of sections 610.010 to 610.026, if the court finds under the facts of the particular case that the public interest in the enforcement of the policy of sections 610.010 to 610.026 outweighs the public interest in sustaining the validity of the action taken in the closed meeting, record or vote. Suit for enforcement shall be brought within one year from which the violation is ascertainable and in no event shall it be brought later than two years after the violation. This subsection shall not apply to an action taken regarding the issuance of bonds or other evidence of indebtedness of a public governmental body if a public hearing, election or public sale has been held regarding the bonds or evidence of indebtedness.

Missouri Attorney General

Missouri Sunshine Law: top ten things to know

1. When in doubt, a meeting or record of a public body should be opened to the public.
2. The Sunshine Law applies to all records, regardless of what form they are kept in, and to all meetings, regardless of the manner in which they are held.
3. The Sunshine Law **allows** a public body to close meetings and records to the public in some limited circumstances, but it **almost never requires** a public body to do so.
4. A public body generally must give at least 24 hours' public notice before holding a meeting. If the meeting will be closed to the public, the notice must state the specific provision of the law that allows the meeting to be closed.
5. Each public body must have a written Sunshine Law policy and a custodian of records whose name is available to the public upon request.
6. The Sunshine Law requires a custodian of records to respond to a records request as soon as possible but no later than **three business days** after the custodian receives it.
7. The Sunshine Law deals with whether a public body's records must be open to the public, but it generally does not state what records the body must keep or for how long. A body cannot, however, avoid a records request by destroying records after it receives a request for those records.
8. The Sunshine Law requires a public body to grant access to open records it already has, but it does not require a public body to create new records in response to a request for information.
9. When responding to a request for copies of its records, the Sunshine Law limits how much a public body can charge for copying and research costs.
10. There are special laws and rules that govern access to law enforcement and judicial records.

MISSOURI ETHICS COMMISSION

CONFLICT OF INTEREST

FOR ELECTED & PUBLIC OFFICIALS

www.mec.mo.gov

03/2013

State Law on Conflicts of Interest

Take nothing of value; do not use position to get something for someone else.

REVISED STATUTES OF MISSOURI

105.452. Prohibited acts by elected and appointed public officials and employees. No elected or appointed official or employee of the state or any political subdivision thereof shall:

(1) Act or refrain from acting in any capacity in which he is lawfully empowered to act as such an official or employee by reason of any payment, offer to pay, promise to pay, or receipt of anything of actual pecuniary value paid or payable, or received or receivable, to himself or any third person, including any gift or campaign contribution, made or received in relationship to or as a condition of the performance of an official act, other than compensation to be paid by the state or political subdivision; or

(2) Use confidential information obtained in the course of or by reason of his employment or official capacity in any manner with intent to result in financial gain for himself, his spouse, his dependent child in his custody, or any business with which he is associated;

(3) Disclose confidential information obtained in the course of or by reason of his employment or official capacity in any manner with intent to result in financial gain for himself or any other person;

(4) Favorably act on any matter that is so specifically designed so as to provide a special monetary benefit to such official or his spouse or dependent children, including but not limited to increases in retirement benefits, whether received from the State of Missouri or any third party by reason of such act. For the purposes of this subdivision **"special monetary benefit"** means being materially affected in a substantially different manner or degree than the manner or degree in which the public in general will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected. In all such matters, such officials must recuse themselves from acting and shall not be relieved by reason of the provisions of section 105.460, except that such official may act on increases in compensation subject to the restrictions of section 13 of article VII of the Missouri Constitution; or

(5) Use his decision-making authority for the purpose of obtaining a financial gain which materially enriches himself, his spouse or dependent children by acting or refraining from acting for the purpose of coercing or extorting from another anything of actual pecuniary value.

105.454. Additional prohibited acts by certain elected and appointed public officials and employees, exceptions. No elected or appointed official or employee of the state or any political subdivision thereof, serving in an executive or administrative capacity, shall:

(1) Perform any service for any agency of the state, or for any political subdivision thereof in which he is an officer or employee or over which he has supervisory power for receipt or payment of any compensation, other than of the compensation provided for the performance of his official duties, in excess of five hundred dollars per annum, except on transactions made pursuant to an award on a contract let or sale made after public notice and competitive bidding, provided that the bid or offer is the lowest received;

(2) Sell, rent or lease any property to any agency of the state, or to any political subdivision thereof in which he is an officer or employee or over which he has supervisory power and received consideration therefor in excess of five hundred dollars per year unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received;

(3) Participate in any matter, directly or indirectly, in which he attempts to influence any decision of any agency of the state, or political subdivision thereof in which he is an officer or employee or over which he has supervisory power, when he knows the result of such decision may be the acceptance of the performance of a service or the sale, rental, or lease of any property to that agency for consideration in excess of five hundred dollars value per annum to him, to his spouse, to a dependent child in his custody or to any business with which he is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received;

(4) Perform any services during the time of his office or employment for any consideration from any person, firm or corporation, other than the compensation provided for the performance of his official duties, by which service he attempts to influence a decision of any agency of the state, or of any political subdivision in which he is an officer or employee or over which he has supervisory power;

(5) Perform any service for consideration during one year after termination of his office or employment, by which performance he attempts to influence a decision of any agency of the state, or a decision of any political subdivision in which he was an officer or employee or over which he had supervisory power, except that this provision shall not be construed to prohibit any person from performing such service and receiving compensation therefor, in any adversary proceeding or in the preparation or filing of any public document or to prohibit an employee of the executive department from being employed by any other department, division or agency of the executive branch of state government. For purposes of this subdivision, within ninety days after assuming office, the governor shall by executive order designate those members of his staff who have supervisory authority over each department, division or agency of state government for purposes of application of this subdivision. The executive order shall be amended within ninety days of any change in the supervisory assignments of the governor's staff. The governor shall designate not less than three staff members pursuant to this subdivision;

(6) Perform any service for any consideration for any person, firm or corporation after termination of his office or employment in relation to any case, decision, proceeding or application with respect to which he was directly concerned or in which he personally participated during the period of his service or employment.

Section 6.0 Behavior; Ethics

6.1 Member Service. Membership on the Planning and Zoning Commission is accepted as public service. Members are appointed by the City Council for a term of three years and until their successors are appointed and qualified. Any member who misses three (3) consecutive regular meetings of the Planning and Zoning Commission shall be deemed to have resigned unless the City Council reaffirms such appointment. Any member may be removed from the Planning and Zoning Commission by action of the City Council. The removal of any such member shall be in accordance with Article IV, Section 15.6 of the Charter and notification of such removal shall be made in writing stating the reasons for such removal and sent to such member at his residence address by United States mail.

6.2 Commissioners Unpaid. Commissioners are unpaid. When Commissioners attend meetings for the benefit of the Commission, staff or city planning for Springfield generally, expenses may be paid in full or in part by the City of Springfield as provided by current rules and regulations; such reimbursed travel must be indicated in the annual budget officially approved by the City Council.

6.3 Case Discussion. Except at public meetings of the Commission, its members do not discuss the resolution of specific cases scheduled or likely to come before the Commission, with applicants, their representatives, or others with a direct interest.

6.4 Personal Interest. A member of the Commission who has some personal or financial interest in any case presented to the Commission shall disqualify himself as the particular case is concerned, shall not sit as a member of the Commission during the hearing of the particular case, and shall not participate in the Commission's hearing and decision in such case.

6.5 Implied Conflict. In cases where an implied conflict of interest exists, a Commissioner abstains from voting and from participation in the hearing.

6.6 Representing Commission. Each Commissioner decides which invitations to attend or participate in public and private functions, he can appropriately accept as a member of the Commission. He is careful to indicate when he is representing the Commission, rather than acting or speaking for himself. Such allied efforts, contributing to the work and purposes of city planning in Springfield are unpaid, except when infrequently acceptance of out-of-pocket expenses is necessary to make possible the constructive participation; in such instances, the Commission is officially consulted or advised.

6.7 Employment not Qualification. Commissioners do not engage in any private or profitable employment, or in any personal business transaction in which the fact of membership on the Commission or any knowledge of its actions unique to membership would be qualification for such employment or a significant reason for the personal business transaction.

6.8 Gifts. Commissioners do not accept gifts from applicants, their representatives, or other persons and institutions concerned with matters which have been or might come before the Commission. However well intended, acceptance of such gifts could lead to misconceptions by prospective donors or the public generally.

6.9 Meeting Conduct. City Planning and Zoning Commissioners shall conduct themselves at Commission meetings in a fair, understanding, and as gracious a manner as circumstances permit. They shall seek to be considerate of all individuals, attitudes, and the difference of opinion almost always involved.

6.10 Commissioner Responsibility. In his behavior and actions, each City Planning and Zoning Commissioner is keenly aware of the Commission's responsibility, together with the City Planning staff, to plan for Springfield as a whole in all primary aspects, both with respect to the present and long-range future. Numerous organizations and individuals contribute significantly to one or several elements of the City, but very few are obliged to continuously consider the entire physical City, its present population and condition, and its future development and inhabitants.