



Louisville Metro Government

Meeting Agenda – Final

Planning and Zoning Committee

Chair Madonna Flood (D-24)
Vice Chair Scott Reed (R-16)
Committee Member Phillip T. Baker (D-6)
Committee Member Ben Reno-Weber (D-8)
Committee Member Jennifer Chappell (D-15)
Committee Member Betsy Ruhe (D-21)
Committee Member Robin Engel (R-22)
Committee Member Khalil Batshon (R-25)

November 10, 2020

1:00 PM

Council Chambers/Virtual

THIS MEETING IS BEING HELD VIA VIDEO TELECONFERENCE
AN ORDINANCE RELATING TO THE TIME AND LOCATION OF PLANNING
COMMISSION PUBLIC HEARINGS DURING STATES OF EMERGENCY

**BYLAWS
LOUISVILLE METRO PLANNING COMMISSION**

**ARTICLE I
Name**

The name of this Commission shall be the Louisville Metro Planning Commission.

**ARTICLE II
Purpose**

The purpose of the Planning Commission shall be to direct the economic growth and physical development of Jefferson County and the communities therein, and to guide such development in such a manner as to assure the prosperity, health, safety, morals and general welfare of the county and its communities.

**ARTICLE III
Goals and Objectives**

The goals and objectives of the Planning Commission shall include, but not be limited to, the following:

A. Management and execution of the business, activities, and affairs of the Commission as prescribed by KRS – Chapter 100 and subsequent amendments and local ordinances and resolutions.

B. Development, review and maintenance of the Cornerstone 2020 Comprehensive Plan, including recommendation of implementation of the plan to the appropriate legislative bodies.

C. Planning and regulation without favor or prejudice to any individual, group, class, race, or creed.

D. Approval of all policies, procedures, and regulations necessary for the management of the affairs of the Commission.

E. Conducts of public hearings as prescribed in the adopted policies and applicable statutes and ordinances. Those Commissioners present for a public hearing shall act as hearing examiners when a quorum is not available pursuant to KRS 100.171.

F. Maintenance, publication and retention of minutes and records of all proceedings, including details of all regulations, transactions, findings and determinations for each proceeding, and the number of votes for and against each question, and indicating whether any member is absent or disqualified from voting.

G. Delegation of authority, where advisable and within the confines of the KRS and local ordinance, to standing committees and the Director.

H. Provision of public outreach and education regarding planning for the community to the general public and the appropriate agencies and organizations.

I. Recognition and acknowledgement of national trends in planning theory and practice, and, if appropriate, implementation of such trends in its decision-making process.

J. Attention to the public interest in the planning process through the provision of full, clear, timely, useable and accurate information on planning issues, and the ability to have a meaningful role in the development of plans and programs.

ARTICLE IV

Members

Section 1. Composition. The Planning Commission shall be composed of ten members as prescribed in KRS 100.137:

A. Eight members who are residents of Jefferson County, and appointed by the Mayor of Louisville-Jefferson County Metro Government, pursuant to the provision of KRS 67C.139.

B. The Mayor of Louisville-Jefferson County Metro Government or his or her designee.

C. The Director of the Metro Public Works Department, or the County Road Engineer, as determined by the Mayor of Louisville-Jefferson County Metro Government.

Section 2. Term of Office.

A. Public Officials. The term of elected public officials or their designees, the Director of the Metro Public Works Department or the County Road Engineer shall be the same as their official tenure in office pursuant to KRS 100.143.

B. Appointed Citizen Members. The term of office for all appointed citizen members shall be three years, with terms expiring on October 1 of the last year of the term. Members appointed prior to consolidation shall continue to serve the remainder of the terms for which the members were appointed and until their successors are appointed and qualified pursuant to KRS 100.137(2). A member is eligible to succeed himself, and shall continue to serve until his successor has been appointed and qualified.

Section 3. Vacancies.

A. Planning Commission Vacancies. Vacancies in the Planning Commission membership shall be filled within sixty days by the appropriate appointing authority. If the authority fails to act within that time, the Planning Commission shall fill the vacancy. When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of that term pursuant to KRS 100.147. The Planning Commission shall act within one-hundred twenty days to fill the vacancy.

B. Board of Zoning Adjustment Vacancies. The Board of Zoning Adjustment, according to its bylaws and KRS Chapter 100, may include two citizen members of the Planning Commission. Vacancy in Planning Commission membership on the Board of Zoning Adjustment shall be filled within sixty days by the appropriate appointing authority. If the authority fails to act within that time, the Planning Commission shall fill the vacancy(ies). Vacancies shall be filled by a citizen member of the Planning Commission, by majority vote of that body, for a term of at least one quarter. At the expiration of that term, the appointed citizen member shall elect to continue serving on the Board of Zoning Adjustment or to be replaced by another citizen member to be selected in the same manner as described herein. Vacancies in the membership of the Board of Zoning Adjustment shall be filled in this manner until such time as the appointing authority fills the position.

Section 4. Compensation. All members shall be reimbursed for any necessary authorized expenses. Citizen members shall receive compensation of one hundred dollars (\$100.00) for each commission meeting attended, but no such member shall be paid more than three thousand dollars (\$3,000) during any fiscal year of the Metro Government. Citizen members who serve on both the Planning Commission and Board of Zoning Adjustment shall be paid no more than three thousand dollars (\$3,000) for their role on the Planning Commission and no more than three thousand dollars (\$3,000) for their role on the Board of Zoning Adjustment during any fiscal year of the Metro Government.

Section 5. Orientation and Continuing Education.

- A. Each planning commissioner is required by KRS 147A.027 to obtain the following:
 - 1. A minimum of four (4) hours of orientation training within one (1) year prior to appointment or within one hundred twenty (120) days of appointment.
 - 2. A minimum of eight (8) hours of continuing education within each period of two (2) consecutive calendar years, starting at the date of the individual's appointment.
- B. Appropriate subjects for education include, but are not limited to: land use planning; zoning; floodplains; transportation; community facilities; ethics; public utilities; wireless telecommunication facilities; parliamentary procedure; public

hearing procedures; administrative law; economic development; housing; public buildings; building construction; land subdivision; and powers and duties of the board of adjustment.

C. Certification of training is required. A written statement shall be filed with the Director or designee by December 31 of each calendar year identifying the date, subject matter, location, sponsor, and time spent in each program.

D. Failure to complete the education requirement or certification of educational activities shall subject the member to removal according to the provisions of KRS 100.157.

Section 6. Removal of members. Any member of the Commission may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. Any appointing authority who exercises the power to remove a member shall submit a written statement to the Commission setting forth the reasons for the removal, and the statement shall be read at the next meeting of the Planning Commission, which shall be open to the general public. The member so removed shall have the rights of appeal in the circuit court pursuant to KRS 100.157.

Section 7. Disclosure of Solicitation of Campaign Contributions. Any Planning Commission member who solicits contributions for an election campaign of a candidate or slate of candidates for statewide-elected office or any elected office within Jefferson County from an individual or business entity appearing before the Commission shall disclose such activities before the case involving the individual or business entity may be heard by the Commission. Such disclosure shall be made verbally as part of the Commission's record, and in writing by filing in the Planning Commission office an official notice of the contribution, including the name of the contributor. For purposes of this Section 7, the definitions in KRS 121.015 shall be applicable.

Section 8 Planning Commission Adherence to Ethical Standards.

A. All members of the Planning Commission shall adhere to the standards of conduct prescribed in the Louisville Metro Ethics Ordinance as contained in Chapter 21 of the Louisville/Jefferson County Metro Code of Ordinances.

B. All members of the Planning Commission shall adhere to the standards of conduct contained in the American Planning Association's policy entitled "Ethical Principles in Planning," adopted in May 1992 as that document may be updated or amended from time to time.

ARTICLE V

Officers

Section 1. Elected Officers. The elected officers shall be a Chair and a Vice-Chair and these positions shall be filled by citizen members.

Section 2. Nominations and Elections.

- A. Nominations. Nominations for officers shall be made from the floor at the annual meeting.
- B. Election. The officers shall be elected annually by a majority vote of all members present at the annual meeting and shall assume office at the close of the annual meeting.

Section 3. Term of Office. Officers shall be elected for a term of one year or until their successors are elected and assume office.

Section 4. Vacancy in Office. A vacancy in the office of Chair shall be filled by the Vice-Chair. The vacancy thus created in the office of Vice-Chair shall be filled at a special meeting or at the next regular meeting following notification that a vacancy exists. Nominations shall be from the floor and the election shall be by majority vote of those members present.

Section 5. Duties of Officers

- A. The Chair shall:
 - 1. Preside at meetings of the Commission.
 - 2. Provide general supervision of the conduct of the affairs of the Commission.
 - 3. Advise the Director of Planning and Design Services as to member concerns.
 - 4. Appoint all committees and committee chairs.
 - 5. Perform such other duties as determined by the Commission, and the bylaws and policies adopted by the Commission.
- B. The Vice-Chair shall:
 - 1. In the absence of the Chair, or in the event of the temporary inability of the Chair to act, perform the duties of the Chair.
 - 2. Succeed to the Office of Chair for the unexpired term, in the event of a vacancy in that office.

3. Assume such other duties as may be assigned to the office by the Commission.

ARTICLE VI

Meetings

Section 1. Regular, Annual, and Special Meetings.

- A. Regular. Regular meetings of the Planning Commission shall be held on the first and third Thursday of each month at a time and place designated by the Commission, except when ordered otherwise by the Planning Commission or the Chair of the Commission.
- B. Annual. The annual meeting shall be the regular meeting held on the third Thursday in January of the calendar year and shall be for the purpose of electing officers, appointing a secretary or secretaries, receiving annual reports of officers, committees, and the Director of Planning and Design Services, and transacting such other business as may arise.
- C. Special. Special meetings shall be held at the call of the Chair. All members shall be notified of such special meetings by written or oral notice at least seven days prior to the meeting. The notice shall specify the date, time, place and the business to be conducted. In the event of an emergency, special meetings may be held without notice, provided all members of the Commission sign a written waiver of notice, such waiver specifying therein and pursuant to KRS 100.167 the time, place and business to be considered. For purposes of this Section C, electronically mailed communication shall constitute written notice.

Section 2. Voting. A majority of all members present where a quorum of the Commission is present shall be necessary to transact any official business, except a majority vote of the total Commission membership is required to adopt or amend the comprehensive plan, and bylaws.

Section 3. Conflict of Interest.

- A. All ten members of the Planning Commission shall be required to disclose any personal or family commercial interest relevant to land use, new development supply, or new development construction. The disclosure shall be a written, signed statement of the general nature of the member's interest. Members shall be eligible to participate in Commission decisions upon completion of the disclosure. The disclosure shall be filed with the Commission's records and shall be available for public inspection during regular business hours. Pursuant to

KRS 100.137, a member shall not vote on an issue in which the member or member's family has an interest.

- B. Any member of the Planning Commission who has any direct or indirect financial interest in the outcome of any questions before the Commission shall disclose the nature of the interest and shall disqualify himself or herself from voting on the question, and he or she shall not be counted for the purposes of a quorum. (See also KRS 100.171(1)).
- C. Any member of the Planning Commission covered by Section A above, shall complete the "Disclosure of Conflict of Interest" form adopted by the Planning Commission, shall sign the form, shall give the signed form to the Chair prior to the Chair calling the case, and shall leave the chambers to ensure that the member is not counted as part of the quorum. The provisions of this section shall be applicable to all members of any committees of the Planning Commission.
- D. The "Disclosure of Conflict of Interest" form shall state: "I, _____ a member of the Louisville Metro Planning Commission, pursuant to KRS 100.171(1) and the Planning Commission's bylaws, hereby disclose that I have a direct or indirect financial interest and/or a conflict of interest in Case No. _____. The nature of this conflict is _____. I formally disqualify myself from voting. Signed _____."

Section 4. Quorum. Five members of the Planning Commission shall constitute a quorum. The lack of a quorum shall not prevent a scheduled public hearing. Rather, in the absence of a quorum, the Planning Commission members in attendance shall hereby be appointed as hearing officers pursuant to KRS 100.171. The Commission Chair or Vice-Chair shall preside if present, or in the absence of the Chair or Vice-Chair, the member in attendance with the longest membership on the Commission shall preside over the public hearing and the members shall make recommendations to the Commission in business session at its next regular meeting.

Section 5. Open Meetings and Public Hearings. Planning Commission meetings and public hearings shall be open to the public as required by the Kentucky Revised Statutes.

Section 6. Virtual Meetings.

- A. From time to time, there may be conditions under which having an in-person meeting would be dangerous, impractical, impossible, or illegal. Under such circumstances, the Planning Commission may allow for virtual meeting, subject to the requirements of this section, and as permitted by state statute.
- B. Definition. A virtual meeting is a meeting conducted via electronic audio and video equipment by the Planning Commission or a committee thereof by with

commissioners, staff, applicants, and the public may “attend” using home computers, laptops, cell phones, or other devices. A virtual meeting must meet all regular requirements of an in-person meeting except for the requirement of a physical meeting location and as otherwise modified by this section.

- C. Security. In order to protect would-be attendees of a virtual meeting from malware and other electronic security risks, all virtual meetings shall be hosted on software approved by PDS Staff in consultation with Metro IT. Any software in use by the Louisville Metro Government shall also be considered presumptively acceptable.
- D. Effect of return to normalcy. When the circumstances which justify the use of virtual meetings lapse, whether by the Planning Commission revoking its explicit grant of approval for the use of virtual meetings for the given condition or otherwise (such as a state of emergency being concluded), any virtual meetings which had been properly noticed to occur with 14 days of such change in circumstances may proceed to be held as virtual meetings, subject to the other conditions of this section.
- E. Outside of conditions described in Section 6, A above, the Planning Commission may conduct a virtual meeting to conduct minor business items not involving a public hearing (ex. Approval of minutes). A physical location will be designated for these meetings for those who are unable to attend virtually. Such meetings shall be subject to the same notification requirements as special meetings (as outlined in Article VI, Section 1, C above).

Section 7. Special Public Hearing Considerations During State of Emergency

- A. The following shall apply during periods in which in-person public hearings and meetings are prohibited or discouraged by a State of Emergency declared either by the Office of the Governor of Kentucky or Office of the Mayor of Louisville Metro.
- B. Evening Hearing Petitions.
 - 1. The Petition for Evening Public Hearing Downtown (which requires 200 signatures) or the Petition for Evening Public Hearing at Convenient Location (which requires 300 signatures) may still be submitted to Planning & Design Services (PDS) for consideration as permitted and outlined by applicable statute or ordinance.
 - 2. If PDS receives either of these petitions, a hearing date will be scheduled as specified in Table 7.1 in this section.
 - 3. Online petitions may be accepted so long as the petition includes an electronic signature, the signee’s full name and address (including ZIP

code), and otherwise meet the requirements for signatures on said petition.

4. Submittal of a petition will not halt the review process. Agency reviews and review before the Land Development & Transportation Committee may take place subsequent to petition submittal.
5. PDS staff will schedule a Land Development & Transportation Committee meeting to schedule the public hearing date. Staff will work with the petitioner and applicants to find a suitable location that can accommodate the required social distancing measures.

C. Any rezoning case that proposes 100 or more housing units; or 100,000 or more square feet of development; or meets the threshold for a traffic impact study as outlined in *Guidelines for Traffic Impact Studies and Air Quality Analysis in Jefferson County, Kentucky* (Appendix 6E of the Land Development Code) shall be subject to the following:

1. An evening public hearing, which interested parties may attend virtually or at a designated in-person location (as outlined in Table 7.1 below), will be scheduled if **EITHER** of the following conditions are satisfied: a.) More than fifty (50) percent of adjoining property owners who are required to be notified (per the notification requirements of the Land Development Code) submit opposition; **OR** b.) At least one hundred (100) residents within the Metro Council district and/or those Metro Council district abutting the districts in which the project is located submit opposition. If neither a. nor b. are met, then a public hearing shall be scheduled per the applicable procedures in Section 6.
 - a. "Opposition" shall be any letter, email, petition, or other written or electronic form of communication submitted to Planning & Design Services as a statement of opposition to a proposed zoning map amendment or the scheduling of a daytime virtual public hearing for a proposal.
 - b. Opposition shall include the name, address and ZIP code of the person submitting the documentation.
 - c. Opposition shall be submitted at least fifteen (15) calendar days prior to the scheduled public hearing date.
2. PDS staff will schedule a Land Development & Transportation Committee meeting to schedule the public hearing date. Staff will work with the petitioner and applicants to find a suitable location that can accommodate the required social distancing measures.

D. Evening Hearing Guidelines

Table 7.1

Guideline Level	Threshold for Gatherings per Executive Order	Evening Hearing Guidelines
Level 1	Up to 100 people permitted at gatherings per Executive Order	<p>Evening hearings (designated in-person location with livestream viewing/participation available) shall be scheduled for rezoning cases described in 7.B and 7.C above. At least one member of the Planning Commission shall be present at the in-person evening hearing location. All other members may attend virtually. Evening hearing will be livestreamed via software approved by PDS Staff in consultation with Metro IT. All speakers are asked to pre-register at least 24 hours in advance of the start time of a scheduled meeting to assure adequate in-person space and online capacity is available. Speakers who are pre-registered will have priority regarding the order in which they speak. Those who do not pre-register will be allowed to speak at the discretion of the Chair and as time and space allow. Hearings shall be conducted in compliance with the applicable social distancing requirements outlined in the Kentucky Healthy at Work Guidance and Requirements for Venues and Public Spaces (available at https://govstatus.egov.com/ky-healthy-at-work).</p>
Level 2	Greater than 100 people permitted at gatherings per Executive Order	<p>Evening hearings (designated in-person location with livestream viewing/participation available) shall be scheduled for rezoning cases described in 7.B and 7.C above. At least one member of the Planning Commission shall be present at the in-person evening hearing location. All Planning Commissioners may attend evening hearings at in-person meeting location*. Evening hearings will be livestreamed via software approved by PDS Staff in consultation with Metro IT. All speakers are asked to pre-register at least 24 hours in advance of the start time of a scheduled meeting to assure adequate in-person space and online capacity is available. Speakers who are pre-</p>

		registered will have priority regarding the order in which they speak. Those who do not pre-register will be allowed to speak at the discretion of the Chair and as time and space allow. Hearings shall be conducted in compliance with the applicable social distancing requirements outlined in the Kentucky Healthy at Work Guidance and Requirements for Venues and Public Spaces (available at https://govstatus.egov.com/ky-healthy-at-work).
Level 3	End of State of Emergency	Public hearings resume normal scheduling and operating procedures.

* Planning Commissioner attendance shall be conditioned on being able to accommodate the technological requirements for conducting a proper virtual meeting involving multiple in-person attendees and the Kentucky Healthy at Work Guidance and Requirements for Venues and Public Spaces. Technological challenges that prohibit the proper livestreaming of the event and/or inability to meet the Kentucky Healthy at Work Guidance and Requirements for Venues and Public Spaces may result in only one planning commissioner attending meetings.

ARTICLE VII Committees

Section 1. Standing Committees

A. There shall be the following standing committees: Land Development and Transportation Committee, Site Inspection Committee, Planning Committee, Development Review Committee, and Policies and Procedures Committee.

1. Land Development and Transportation Committee

a. Composition: The Land Development and Transportation Committee shall consist of five members of the Planning Commission or at least 50% of the currently appointed Planning Commission members.

b. Quorum. Three (3) members of the Land Development and Transportation Committee shall constitute a quorum of the Committee.

- c. Meetings. The Land Development and Transportation Committee shall meet on the second and fourth Thursday of each month, except when determined otherwise by the committee chairman or the Planning Commission.
- d. Duties. It shall be the duty of this committee to:
 - 1. Review plans for zoning changes and subdivisions to resolve technical problems.
 - 2. Review plans for street and alley closures and street and alley name changes to resolve technical problems.
 - 3. Schedule dates for applications to be presented in a public hearing.
 - 4. Perform such other duties as may be prescribed in the adopted policies and as may be determined by the Planning Commission.

2. Site Inspection Committee

- a. Meetings. The Site Inspection Committee shall meet on call of the committee chair or any two members of the committee. A site inspection is not considered a meeting and does not require a quorum.
- b. Duties. It shall be the duty of the Site Inspection Committee to:
 - 1. Designate one or more members to visit each site proposed for a change in zoning or parking waiver, and the surrounding area.
 - 2. Make written comments on the approved site inspection form concerning the physical characteristics of the subject site and the surrounding area.
 - 3. Perform such other duties as prescribed in the adopted policies and as may be determined by the Planning Commission.

3. Planning Committee

- a. Meetings. The Planning Committee shall meet on call of the chairman or any two members of the committee.
- b. Duties. It is the duty of this committee to:
 - 1. Review the development and maintenance of the comprehensive plan in compliance with KRS 100.
 - 2. Review the development and determine the currency of various implantation measures, including:
 - a. Zoning regulations,
 - b. Subdivision regulations,
 - c. Small area, neighborhood or sector plans,
 - d. Capital Improvement Programming.
 - 3. Review agency goals and objectives, both long term and short term.
 - 4. Review annual and multiyear work programs.
 - 5. Review any other land use and development policy document, assistance program or other such efforts as may come before the Committee.
 - 6. Perform such other duties as prescribed in the adopted policies and as may be determined by the Planning Commission.

4. Development Review Committee

- a. Composition. The Development Review Committee shall consist of five members of the Planning Commission or at least 50% of the currently appointed Planning Commission members.
- b. Quorum. Three (3) members of the Development Review Committee shall constitute a quorum of the Committee.
- c. Meetings. The Development Review Committee shall meet on the first and third Wednesday of each month except when determined

otherwise by the committee chairman or the Planning Commission.

d. Duties. It is the duty of this committee to:

1. Review Category 3 development plans, conduct the required public meeting, and take action on the plans in accordance with Chapter 11, Part 6 of the Land Development Code.

2. Review plans for street and alley closures and street and alley name changes to resolve technical problems.

3. By unanimous vote where a quorum is present, to give final approval on:

A. Any subdivision plat not approved by staff including the granting of waivers under Chapter 7, Part 1.80 of the Land Development Code.

B. General District Development Plans, if a public hearing is not required.

C. Amendments to binding elements on General District Development Plans, including expiration dates.

D. Detailed District Development Plans and additional binding elements.

E. General or Revised District Development Plans on cases remanded to the Planning Commission by the legislative body when it overturns the Planning Commission's recommendation of denial.

F. Revised preliminary plans, if a new public hearing is not required.

G. Community Facilities Reviews.

H. Road dedications for purposes of maintenance by the Louisville Metro Public Works Department in accordance with KRS 178.400.

I. Sign plans, screening or landscaping plans where required by binding elements or other conditions.

J. Waivers pursuant to Chapter 11, Part 8, and Section 9.1.16 of the Land Development Code.

K. Development plans for regulated activities within a Development Review Overlay District.

L. Lighting plans for recreational facilities pursuant to LDC Section 4.1.3.B.6.

M. Land disturbing activity on unstable soils pursuant to LDC Section 4.7.

N. Design of outdoor amenities and focal points pursuant to LDC Section 5.12.

O. Changing image signs with a rate of change in excess of the restrictions set forth in LDC Chapter 8.

P. Elevator parking systems and vertical parking towers pursuant to LDC Section 9.1.8 and stacked and valet parking pursuant to LDC Section 9.1.9.

Q. Alternative sites to meet tree canopy requirements pursuant to LDC Section 10.1.3.

R. Transfer of open space pursuant to LDC Section 10.5.5.

4. Perform such other duties as may be prescribed in the adopted policies and as may be determined by the Planning Commission.

5. Policies and Procedures Committee

a. Meetings. The Policies and Procedures Committee shall meet on the call of the committee chairman or the Planning Commission.

b. Duties. It shall be the duty of this committee to:

1. Periodically review the Bylaws and Policies and Procedures of the Planning Commission and recommend updates to the full Commission for consideration.
- B. Composition and Appointment. The standing committees shall be composed of three or more members appointed by the Chair of the Planning Commission. Any Commissioner may serve as a voting alternative for all standing committees when an appointed member is unable to attend the meeting.
- C. Quorum. Unless otherwise specified, a majority of the members of a committee shall constitute a quorum of the committee.

Section 2. Special Committees. Special committees shall be appointed by the Planning Commission Chair when deemed necessary by the Planning Commission.

A. Technical Review Committee.

1. Composition. The Technical Review Committee ("TRC") shall be created at such time as the Commission Chair determines that the volume of new applications for major subdivisions has increased to a level at which it is no longer practical for such applications to be reviewed by another standing committee of the Commission. At such time, the TRC shall be comprised of the following:

a. Core Members. Core Members shall be required to attend all TRC meetings and provide written comments on plans. Core Members shall include one staff representative from:

1. The Division of Planning and Design Services
2. The Department of Public Works and Assets or Department responsible for transportation review
3. The Metropolitan Sewer District

b. Full Members. Full Members may attend TRC meetings and are required to provide written comments on plans. Full Members shall include one staff representative from:

1. The Department of Health and Wellness
2. The Air Pollution Control District
3. The Department of Economic Development

4. The Division of Planning and Design Services, Urban Design Team

5. The Kentucky Department of Transportation

6. The agency providing fire protection to the subject property

c. **Advisory Members.** Advisory Members are provided with copies of subdivision plans, and may attend TRC and/or provide written comments as necessary. Advisory Members include one staff representative from the following agencies or their successors:

1. Louisville Gas & Electric

2. Louisville Water Company

3. Insight Cable

4. The Kentucky Division of Water or its successor

5. BellSouth/AT&T

2. **Conduct of Business.** The attendance of all Core Members shall be required for the conduct of business by the Technical Review Committee. Decisions on subdivisions shall be made by unanimous decision of all Core Members. Where a unanimous decision cannot be made, or where variances or waivers are required, the application shall be forwarded to the Commission for additional review and final action.

3. **Notice and Participation by Interested Parties.** Notice of a TRC meeting shall be provided in accordance with the Land Development Code. Interested parties shall be afforded an opportunity to comment on proposed subdivisions, both in writing in advance of TRC's review of the proposal and in person during the TRC review of the plan.

4. **Duties.** The duties of the TRC include the review and approval of code-compliant major subdivisions. The TRC identifies and resolves technical issues and conflicting agency requirements to facilitate the approval of plans on behalf of the Planning Commission. Where TRC identifies an issue that cannot be resolved through plan revision, it shall refer the matter to the Planning Commission for consideration of any required variances or waivers in conjunction with the requested subdivision.

Section 3. Committee Membership. Public officials, interested citizens, or persons with a specialized knowledge may be appointed to serve on the Planning Committee or a sub-

committee thereof, the Policies and Procedures Committee or a sub-committee thereof, and Special Committees.

Section 4. Ex-Officio Member. The Chair of the Planning Commission shall serve as an ex-officio member of all committees, with the exception of the Technical Review Committee, which shall be comprised of staff representatives as set forth above.

ARTICLE VIII

Director, Planning and Design Services

Section 1. Employment. The Director of Planning and Design Services shall be selected and employed by the Louisville-Jefferson County Metro Government, which shall determine the terms of his employment.

Section 2. Duties. Under the general supervision of the Mayor, the Director shall carry out the duties of the position as defined by the Metro Government personnel rules, policies, job descriptions and other related requirements as directed by the appointing authority. The Director shall:

A. Present, at the annual Planning Commission meeting in January, a report of the activities of the Planning Commission of the preceding year and a statement of goals and objectives for the ensuing year.

B. When the Technical Review Committee has been constituted as set forth in these Bylaws, schedule for Commission review those development proposals having been recommended by the Committee for Commission action.

C. Create or revise any other forms as necessary for the administration of the business and affairs of the Planning Commission.

D. Perform such other duties and responsibilities as may from time to time be requested by the Chair of the Planning Commission or the Planning Commission.

E. Take action on behalf of the Planning Commission when specifically authorized to do so, and when such authorization is consistent with applicable regulations.

ARTICLE IX

Parliamentary Authority

Robert's Rules of Order, Modern Edition shall govern the proceedings of the Planning Commission in all cases to which they are applicable and in which they are not inconsistent with these bylaws, Kentucky Revised Statutes, or local laws.

ARTICLE X

Amendments

These Bylaws may be amended by a majority vote of the total membership of the Planning Commission at any regular meeting or special meeting of the Planning Commission provided that copies of the proposed amendment have been included in the notice of such meeting.

History:

Adopted January 30, 1986

Article IV Members—

Section 7 & 8 adopted April 19, 2001

Article VI Meetings—

Section I revised January 17, 2002

Revised August 2004

Revised May 18, 2006

Revised February 2, 2012

Revised December 19, 2013

Revised February 7, 2019

Revised June 4, 2020 (Virtual Meetings added)

Revised September 17, 2020 (Night Hearings during State of Emergency)

POLICIES
LOUISVILLE METRO PLANNING COMMISSION

PLANNING COMMISSION POLICIES.....1.00

1.01 Policies may be:

1.01.01 adopted by majority vote.

1.01.02 amended or rescinded by a 2/3 vote without previous notice, or by a majority vote after previous notice.

1.01.03 suspended temporarily by a majority vote.

ADMINISTRATIVE POLICIES.....2.00

2.01 The Director of Planning and Design Services shall have charge of all official books, papers and records of the Commission and shall be responsible for all official correspondence relative to hearings, meetings, resolutions and decisions of the Commission.

2.01.01 The Director of Planning and Design Services may assign certain duties listed in 2.01 to a staff member who shall be assigned the title of "Administrative Recorder."

2.02 As soon as practicable after action by the Planning Commission, the Director of Planning and Design Services shall deliver to the applicable legislative body copies of the full and complete record of the case reflecting said action.

APPLICATION PROCEDURES.....3.0

3.01 Pre-application

3.01.01 Pre-applications for qualified projects using the green building incentives contained in the Land Development Code shall be expedited. Such pre-applications shall be processed within two weeks of their filing.

3.02 Applications

3.02.01 Every matter on which the Commission is authorized or required to act, shall be presented in writing or on forms provided by the Commission for a specific presentation and shall include all information necessary for clear understanding and intelligent action by the Commission. Such

information, when requested by the Commission, shall include but not be limited to maps, surveys, drawings, plans, charts, and descriptive data.

3.02.02 All matters to come before the Commission shall be filed in the Commission's office between 8:00 a.m. and 5:00 p.m., except on weekends and holidays. The schedule for review of developments and applicable deadlines shall be maintained, posted and available through the staff of the Division of Planning and Design Services at said Division's offices.

3.02.03 No application for a change of zoning shall be accepted within two years of Commission action on an application on the same or substantially the same tract of property, unless the Commission finds and resolves that either:

(1) substantial land use, economic or social changes affecting the property have occurred in the interim, or

(2) the new application differs significantly from the original application. For purposes of this Policy, "differs significantly" shall mean (a) a different land use; or (b) any other difference that the Planning Commission finds to constitute a significant change from the original application.

Notification shall be given to anyone who spoke at previous hearings regarding change of zoning requests as well as all parties subject to the notification requirements of zoning map amendments as described in Section 11.4.3 of the Land Development Code.

The request shall be subject to public hearing by the Planning Commission as specified in Article VI of the Bylaws of the Louisville Metro Planning Commission.

Applications made by governmental agencies shall not be subject to this policy nor shall such governmental applications affect the filing of subsequent non-governmental applications.

3.03 Notice

3.03.01 Whenever notice of a public hearing or meeting, or of a staff-approvable decision is required pursuant to the Kentucky Revised Statutes, the Land Development Code, the Planning Commission Bylaws or these Policies, it shall be the responsibility of the applicant to ensure that proper notice is postmarked for the required notice period. Proof of notice shall be

provided by affidavit to the Commission's staff and the Commission's staff shall be mailed a copy of the notice at the same time it is provided as required under the Land Development Code.

- 3.03.02 It shall be the duty of the person or persons making the application to furnish to the Division of Planning and Design Services the names and addresses of the owners of all property described in this section. Records maintained by the Jefferson County Property Valuation Administrator may be relied upon conclusively to determine the identity and address of said owner(s). In the event a property described in this section is held in a cooperative or condominium form of ownership, the person entitled to notice under this section shall be the president or chairman of the owner group that administers the property in common ownership. A joint notice may be mailed to two or more co-owners of a property described in this section where those co-owners are listed in the Property Valuation Administrator's records as having the same address.

3.04 Notice of Filing of Application

- 3.04.01 Notice of Filing of Application – Notice of any initial application (including applications by governmental entities), filed with the division of Planning & Design Services (PDS), related to (a) a zoning map or form district amendment, (b) a Detailed District Development Plan, General District Development Plan or detailed development plan for planned district developments, revised detailed district development plan or revised general district development plan, (c) a modification, deletion, or addition of a binding element or a condition of approval, (d) a conditional use permit, (e) a variance (except non-hearing variances), (f) a waiver, (g) a major subdivision or conservation subdivision, shall be given to certain persons or entities by the methods indicated in paragraph 3.04.03 below. The submittal date shall be the date when PDS accepts the application as administratively complete, meaning an application determined to contain the information necessary to initiate agency review. For case types that require the pre-application process (i.e. zoning/form district map amendment, conditional use permit), this notification requirement shall be applied only to the pre-application submittal, and shall not be required at the time the formal application is submitted. Once notice for an application has been given according to this section, no additional notice shall be required just because of changes in the application, unless the application has become a new case in the system. The notice required by this section, however, shall be in addition to any notice of further actions or hearings otherwise required by statute, ordinance or other regulation. Except for 3.04.01 (c), this provision shall not be applicable to staff approvable proposals.

- 3.04.02 The notice shall include the property address, the assigned case number, the name of the case manager, and a brief description of the request.
- 3.04.03 For applications listed in 3.04.01 as (a) through (g) above notice shall be given by the applicant, by depositing in the United States mail not more than seventeen (17) days following the submittal deadline date of the application to persons required to receive notice of public meetings according to the current Land Development Code and Planning Commission Policies and Procedures, Email notification shall also be given to any person subscribed to the Notification for Development Proposals List for the Council District in which the subject property is located.
- 3.04.04 It shall be the duty of the applicant to furnish to the Division of Planning and Design Services the names and addresses of the parties notified as required above and a copy of the notice sent within seven (7) calendar days after such notices are mailed. Records maintained by the Jefferson County Property Valuation Administrator (PVA) may be relied upon conclusively to determine the identity and address of said owners. In the event a property described in this section is held in a cooperative or condominium form of ownership, the person entitled to notice under this section shall be the president or chairperson of the owner group that administers the property in common ownership. A joint notice may be mailed to two or more co-owners of a property described in this section where those co-owners are listed in the Property Valuation Administrator's records as having the same address.
- 3.04.05 If the applicant does not submit the confirmation that the mailing took place within the seventeen (17) day period as mentioned in the preceding paragraph, then Planning & Design Services staff will cease all review of the application in question. Once the applicant submits the mailing confirmation to Planning & Design Services staff, then the application will be reinserted into the next current review cycle within the Case Management System, or the application will be docketed for public meeting if determined ready and complete by the case manager. The applicant will be responsible for any added costs associated with processing additional public meeting notices and/or meeting cancellation notices.
- 3.04.06 Cases that are noticed for their public meeting or neighborhood meeting less than seventeen (17) days after the submittal deadline date shall be exempt from these application notification requirements.

3.05 Neighborhood Meetings

3.05.01 Neighborhood meetings for zoning map amendments and subdivision requests shall be held in accordance with the applicable section of the Land Development Code.

3.05.02 Neighborhood Meeting Scheduling Requirements

(1) Neighborhood meetings shall not be held on national holidays. It is recommended that religious and other significant holidays be avoided.

(2) Neighborhood meetings shall not be held on the same night as regularly scheduled Metro Council meetings.

(3) Neighborhood meetings shall be held on weekdays (Friday evening is considered a weekend), starting no earlier than 6:00 p.m. and no later than 8:00 p.m.

(4) The date of the meeting must be a minimum of 14 days after the Neighborhood Meeting Notice is sent out. *(NOTE: This includes the electronic notice emailed by Planning & Design Services staff.)*

(5) Neighborhood meetings shall be held inside a building with enough space and seating capacity to accommodate those invited to the meeting.

(6) Neighborhood meetings shall be held in Jefferson County, within reasonable proximity to the subject site. *(NOTE: Neighborhood meetings for Conditional Use Permits are required to be within one (1) mile of the subject site unless approved by the case manager.)*

(7) A virtual neighborhood meeting may be required in addition to a regular neighborhood meeting as a means of providing an additional option for interested parties to participate. This meeting may be held concurrently with the regular neighborhood meeting or on a separate date and time. The applicant shall be required to meet the Security and Increased Feedback requirements for Virtual Neighborhood Meetings described below.

3.05.03 Neighborhood Meeting Content Requirements

(1) The applicant/meeting moderator shall maintain a sign-in sheet of the attendees. Anyone who signs the sign-in sheet who did not receive the neighborhood meeting notice shall be added to the official mailing label matrix for all future notices regarding the proposal. Also, any interested parties may contact the applicant to register as an attendee and be included on the sign-in sheet and added to the official mailing label matrix for all future notices regarding the proposal.

(2) The applicant/meeting moderator shall provide an overview of the proposal.

(3) The applicant/meeting moderator shall have a thorough understanding of the proposal and be able to address any questions or concerns by those in attendance.

(4) The applicant shall distribute the *After the Neighborhood Meeting* flyer to all attendees.

3.05.04 If sufficient evidence (as determined by the Planning Director) is submitted identifying a neighborhood meeting standard outlined in 3.05.02 and/or 3.05.03 was not complied with, the following consequences shall occur:

(1) If discovered prior to formal application filing, the formal application shall not be accepted until a neighborhood meeting is held in conformance with the standards outlined in 3.05.02 and/or 3.05.03.

(2) If discovered after formal filing of the application, the public hearing shall be postponed or continued until the neighborhood meeting is held in conformance with the standards outlined in 3.05.02 and/or 3.05.03.

(3) If discovered at the Land Development & Transportation meeting (which is held prior to scheduling the Planning Commission public hearing date), the Committee shall continue the meeting, and not schedule a public hearing date, until the neighborhood meeting is held in conformance with the standards outlined in 3.05.02 and/or 3.05.03.

3.05.05 Virtual Neighborhood Meetings

(1) **Definition.** A virtual neighborhood meeting is a neighborhood meeting conducted via electronic audio and video equipment by an applicant which residents may 'attend' using home computers, laptops, cell phones, or other devices. A virtual neighborhood meeting must meet all regular requirements of an in-person neighborhood meeting except for the requirement of a physical meeting location and as otherwise modified by this section. *(NOTE: A physical meeting location may be provided by the applicant in addition to the virtual neighborhood meeting if conditions permit in-person meetings.)*

(2) Virtual neighborhood meetings may be conducted in lieu of regular neighborhood meetings, upon explicit permission of the Planning Commission during periods in which in-person neighborhood meetings are prohibited or discouraged by a State of Emergency declared either by the Office of the Governor of Kentucky or Office of the Mayor of Louisville Metro, during which applicants may conduct a virtual neighborhood meeting to satisfy the neighborhood meeting requirements of the Land Development Code. Each virtual neighborhood meeting must be pre-approved by the Planning Director. A written request to the Planning Director shall be provided by the applicant. The request shall detail methods of notification, proposed information and proposed virtual platform.

(3) **Security.** In order to protect would-be attendees of a virtual neighborhood meeting from malware and other electronic security risks, all virtual neighborhood meetings shall be hosted on platform approved by the Planning Director in consultation with Metro IT. Any platform in use by the Louisville Metro Government shall be considered acceptable.

(4) **Primary Enhanced Notice.** Methods of notices must be approved by the Planning Director. The Primary Enhanced Notice shall be required for virtual neighborhood meetings and sent to all required parties at least fourteen (14) days in advance of the scheduled meeting date. The Primary Enhanced Notice shall be approved by the Planning Director or their designee prior to being mailed and shall include, but not be limited to, the following:

(a) A detailed summary of the proposal, including but not limited to the following depending on relevancy with the proposal:

- Present and proposed zoning/form districts, land uses, patterns and lot counts
- Proposed building heights and setbacks
- Proposed landscaping, screening and buffering
- Sanitary sewer availability
- Stormwater management plans
- Road and access modifications

(b) A color copy of the proposed development plan/subdivision plan with a minimum size of 8 1/2"x11".

(c) A LOJIC map showing the location of the proposal

(d) Contact information for the applicant and associated professionals (attorneys, engineers, etc.), including but not limited to designating a person as a primary point of contact, a phone number and email address, for any questions or comments. Notice shall also include a physical address to which written comments may be mailed and incorporated into the meeting record. A resident who has received the notice by mail can request an in-person meeting, if conditions permit, due to lack of access to the technology needed to attend the virtual meeting.

(e) Case number (if there is one) and contact information, including but not limited to a phone number and email address, for Planning & Design Services case manager or supervisor.

(f) Information on how to obtain case information online from Louisville Metro Planning & Design's online customer service portal.

(g) The *After the Neighborhood Meeting* flier produced by Louisville Metro Planning & Design.

(5) **Secondary Notice.** A second notice shall be sent to all required parties at least seven (7) days prior to the scheduled meeting date. The Secondary Notice shall include the date, time, physical location (if applicable) and information on how to connect to the virtual neighborhood meeting, as well as contact information for the applicant and associated professionals as described in the Primary Notice requirements.

(6) **Increased feedback.** Applicants who choose to host virtual neighborhood meetings shall:

(a) Include in its summary a transcript of any typed communication located in the chat associated with the virtual neighborhood meeting and written comments received before, during and after the meeting.

(b) Direct attendees of their virtual neighborhood meeting to the Louisville Metro Office of Planning and Design should attendees wish to submit comments directly to Planning Commission.

(c) Submit a digital recording of the virtual neighborhood meeting to the Louisville Metro Office of Planning and Design with application submittal.

(7) **Effect of virtual neighborhood meeting.** An applicant who hosts a virtual neighborhood meeting which satisfies all requirements of this section may proceed with filing its formal application.

(8) **Second neighborhood meeting.** The Planning Commission reserves the right to require any applicant who chooses to hold a virtual neighborhood meeting to hold a second, in-person neighborhood meeting before the Planning Commission makes its final decision on the application provided conditions permit such a meeting. Such a meeting may be required either by a vote of the body or upon request by PDS Staff. Reasons for such a requirement may include, but are not limited to:

(a) The conditions justifying the virtual neighborhood meeting may have also negatively impacted its attendance

(b) Testimony from those noticed of the virtual neighborhood meeting that they were unable to participate due to technological limitations

(c) Any other reason under which the Planning Commission may regularly require an applicant to conduct an additional neighborhood meeting

(9) **Effect of return to normalcy.** When the circumstances which justify the exclusive use of virtual neighborhood meetings lapse, whether by the Planning Commission revoking its explicit grant of approval for the use of virtual meetings for the given condition or otherwise (such as a state of emergency being concluded), any virtual neighborhood meetings which had been properly noticed to occur within 14 days of such change in circumstances may proceed to be held as virtual neighborhood meetings,

subject to the other conditions of this section. However, an in-person neighborhood meeting may be required in addition to the virtual neighborhood meeting at the discretion of the Planning Commission.

LAND DEVELOPMENT AND TRANSPORTATION (LD&T)/
DEVELOPMENT REVIEW COMMITTEE (DRC).....4.00

- 4.01 Concerned public agencies and other affected parties may attend LD&T and DRC Committee meetings to advise on or to express concerns of a technical nature related to matters coming before the Committee.
- 4.02 A proposal to revise a record plat may be scheduled for a public hearing where lots shown on the plat have been previously sold to persons who have not consented in writing to the revision. Notice of such a hearing shall be given pursuant to Section 7.1.91 of the Land Development Code.
- 4.03 When a single tract requires a public hearing for more than one purpose, the LD&T Committee shall schedule the public hearing at the same time, if practicable. Joint hearings shall be held on a change in zoning and concurrent subdivision plan approval; a change in zoning and concurrent conditional use permit or variance requests; and may be held on other actions, as appropriate, such as joint hearing for change in zoning and sign-off on an Urban Renewal Plan.
- 4.04 In review of applications and other matters, the LD&T and the DRC Committees may consider, but are not limited to, the following:
 - 4.04.01 Technical review of applicable guidelines of the Comprehensive Plan
 - 4.04.02 The Land Development Code
 - 4.04.03 Comments, both written and oral, from governmental agencies, and public and private utilities
 - 4.04.04 Pertinent map, surveys, drawings, plans, charts, and descriptive data
 - 4.04.05 Pertinent traffic data for any development that warrants referral to the APCD and/or Metro Public Works Department for recommendation
 - 4.04.06 Written and oral comments of applicants or their representatives, or any interested parties
- 4.05 The Director of Planning and Design Services or designee is authorized to approve any of the following proposals:
 - 4.05.01 Major subdivision record plats found to be in strict compliance with the approved subdivision preliminary plan and the Land Development Code.

- 4.05.02 Minor subdivision plats found to be in strict compliance with the Land Development Code where no preliminary plan has been approved for all or any part of the same property during the immediately preceding 3 years, and minor plats dedicating the right-of-way required by the Land Development Code provided such plat has been reviewed and marked approved by the Director of Metro Public Works.
- 4.05.03 Screening and landscaping plans required by binding elements or other conditions.
- 4.05.04 Sign plans for proposed signs, as long as they meet the requirements of the general plan, relevant binding elements and the Land Development Code.
- 4.05.05 Reduction and release of bonds after authorization from the appropriate works department and receipt of all required agency letters.
- 4.05.06 Amendment of binding elements or district development plan to allow an cumulative increase in square footage of all buildings in an approved development by no more than twenty-five percent (25%) of the amount specified on the approved district development plan, or to allow any decrease in square footage of buildings in an approved development. In no case shall this delegation of authority permit a change in excess of the threshold established in the applicable Form District regulation for completing the Community Design Review process (Category 3). Such amendments must result in a change that conforms with all applicable regulations, and does not alter the basic configuration of the structure and its location on the site as approved by the Planning Commission.
- 4.05.07 First extension of the expiration date for development plans and preliminary plans.
- 4.05.08 Revised preliminary plans for standard subdivisions, when no public hearing is required and when the proposal conforms with applicable sections of the Land Development Code.
- 4.05.09 Stacked parking spaces as specified in the Land Development Code.
- 4.05.10 Joint use and off-site parking, as well as determinations of numbers of spaces reasonably anticipated to be available during hours of operation, pursuant to the Land Development Code, and the Development Code for all of Jefferson County.

- 4.05.11 The Director is authorized to delegate to the Building Official approval of Category 2 development plans, as defined in the applicable matrix (Design Standards, Thresholds and Applicability Tables found in Chapter 5 of the Land Development Code).
 - 4.05.12 Shifts in building limit lines unless said shift results in a need for a variance, waiver or other discretionary approval.
 - 4.05.13 Community Facility Reviews.
 - 4.05.14 No staff member shall be required to approve any delegated items/proposals if he/she has reason question its accuracy, or its compliance with any subdivision, zoning or other regulations. The property owner may request any plan or minor plat, for which staff approval has been refused, to be placed on the docket of the appropriate sub-committee.
- 4.06 The filing deadline for docketing of cases for consideration by the Planning Commission or a committee thereof shall be posted in the offices of the Division of Planning and Design Services and electronically on said Division's website, and shall ensure adequate time for full review, revision and notification of cases prior to a review session or public hearing, in accordance with the Land Development Code.
- 4.07 Committee Action
- 4.07.01 Any appointed standing committee may take appropriate action on any matter coming before it in accordance with the powers delegated to it by the Planning Commission Bylaws and the Land Development Code.
- 4.08 Binding Elements, Development Plans and Preliminary Subdivision Plans
- 4.08.01 Amendments to Binding Elements
 - a. Amendments to binding elements shall be reviewed by the appropriate committee of the Planning Commission in a public meeting and shall be acted on or at a properly noticed public hearing.
 - b. Notice of the following actions shall be provided in accordance with these Policies:
 - 1. First approval of detailed district development plans on properties that are adjacent to residential zones/uses.
 - 2. Revisions to binding elements or detailed district development plans that concern the following:

- i. Change in use
 - ii. Increased density for residential uses
 - iii. Increases of more than 25% in square footage of any use
 - iv. Changes in Screening and buffering plans, and
 - v. Changes in hours of operation
 - c. No notice shall be required for revised detailed district development plans that were originally approved without notice to adjoining property owners, unless the revised development plan meets the conditions contained under Section b(2) above.
- 4.08.02 The time period for obtaining a building permit or certificate of occupancy for development plans that have been involved in litigation shall be counted from the date on which the Court action is finally concluded. The applicant shall provide documentation as required by the Planning Commission Legal Counsel to document the conclusion of the legal challenge to the project and to establish the date from which the mandatory time period should be reckoned. Planning and Design Services staff shall amend the approval stamp to reflect the revised expiration date, upon direction from the Commission's Legal Counsel.
- 4.08.03 Combined Category 3/Overlay District Review
- Where an applicant is required to receive a Category 3 approval in addition to approval from an Overlay District Committee, pursuant to Chapter 162 of the Louisville Metro Code of Ordinances, the following policies shall apply:
- a. The Planning Commission shall, at a regular meeting preceding the Overlay Committee meeting at which the development plan shall be presented, appoint a citizen member to serve as a hearing officer at the Overlay Committee hearing.
 - b. The hearing officer shall attend the Overlay Committee hearing on the development plan to ask questions and prepare a summary to present to the Planning Commission at its next regularly scheduled meeting. This Overlay Committee hearing shall be properly noticed in accordance with applicable provisions of the Land Development Code and serve in lieu of the Planning Commission holding an additional public meeting to review the Category 3 plan.
 - c. The Planning Commission shall, following a report of the hearing officer, take action on the Category 3 component of the development plan in business session at its next regularly scheduled meeting.
- 4.08.04 Development Plans and Preliminary Subdivision Plans. Preliminary subdivision plans shall be considered the equivalent of a development

plan for purposes of administration, approval and enforcement, and conditions of approval associated with a preliminary subdivision plan shall be assigned the same status as binding element associated with development plans.

RESERVED.....5.00

PLAN REVISIONS POLICY.....6.00

- 6.01 If a development plan, subdivision plan or other required submission(s) requires amendment or revision as the result of discussion or agreement in a public hearing on a request, the Commission may also delegate review of the revision to staff or continue the public hearing to a date certain, giving sufficient time for the applicant to submit and the staff to review the required amendments or revisions.

If the hearing cannot be continued to a date certain then notice of the continued public hearing shall be provided in accordance with statutory requirements.

PUBLIC HEARINGS.....7.00

- 7.01 Public hearings shall be held in the first floor courtroom of the Old Jail Building (514 W. Liberty) unless the Chair of the Commission designates some other place.
- 7.02 Cases set for public hearing on a given day shall be heard in the order in which they appear on the agenda unless the Chair directs otherwise.
- 7.03 The Chair may rule testimony out of order if the testimony is redundant or irrelevant or if it is not presented at the proper time.
- 7.04 The Chair shall have the authority to determine the admissibility of evidence.
- 7.05 When a matter is set and advertised for a public hearing, the hearing shall be conducted even if no interested party is present at the hearing unless the Chair directs otherwise.
- 7.06 Within a reasonable time prior to the public hearing, any person planning to attend may request that the Planning Commission invite any governmental employee, who has commented in writing on the proposal, to come to the hearing for the purpose of answering questions relating to said comments.
- 7.07 Each person who speaks at the public hearing shall furnish his name and address to the Commission. All testimony presented to the Commission shall be sworn testimony given under oath to be administered by the Chair of the Commission.
- 7.08 Each matter in the public hearing shall be heard in the following order:
- 7.08.01 The Chair of the Commission, or other presiding officer, shall read the notice of the hearing.
- 7.08.02 A member of the staff shall present a summary of the staff report.

- 7.08.03 The applicant, or his representative, shall make a statement giving reasons for the request.
- 7.08.04 Other persons in favor of the application shall be heard.
- 7.08.05 Those persons opposed to the application shall be heard.
- 7.08.06 Persons wishing to ask question of previous speakers on their testimony shall be permitted to ask those questions following the conclusion of said testimony, or at other times at the discretion of the Chair. Such questions shall be limited in scope to the previous speaker's testimony, and not related to general issues involved in the case.
- 7.08.07 The applicant, or his representative, may provide a summation if persons have testified in opposition in the case. Other speakers may be allowed to respond to the summation for good cause and at the discretion of the Chair.
- 7.09 The Commission may limit the time each person may speak.
- 7.09.01 Public Hearings rescheduled at the request of interested parties for a time or location other than the bimonthly public hearings shall be subject to the following time limits, unless waived by the Commission at the outset of the hearing. The applicant or his representative and others in favor of the application shall have 1 hour for their remarks. Persons opposed to the application shall have 75 minutes to offer comments on the proposal. Summation by the applicant or his representative shall be allotted no more than 15 minutes.
- 7.09.02 The regular bimonthly public hearings shall be subject to the following time limits, unless waived as described below. The applicant or his representative and other persons in favor of the application shall have a total of no more than 20 minutes for their remarks. Persons opposed to the application shall have a total of no more than 25 minutes to offer comments on the proposal. Summation by the applicant or his representative shall be allotted no more than 5 minutes. Hearing time limits may be extended in accordance with the following:
- a. Upon the recommendation of the LD&T Committee; or,
 - b. By the Planning Commission Chair after consideration of the justification submitted with a written request for extended time filed by the requesting party no less than one week prior to the public hearing.
- 7.10 At any time during the hearing, members of the commission may ask any person in attendance questions relating to the case. In addition, questions shall be allowed. Such questions shall be limited to subjects discussed by the witness being questioned, and shall be subject to the reasonable control of the Commission. If new information is presented for the first time during summation, the Commission may allow prior adverse

speakers to comment or ask questions, provided that such comments or questions shall be limited in scope to the new information presented during summation testimony.

- 7.11 All evidence should be presented at the public hearing. No new or additional evidence may be received into the record after the conclusion of the public hearing.
- 7.12 Any exhibit which cannot be folded so as to fit easily into an 8 ½" x 14" folder shall be submitted in a publicly accessible format determined to be acceptable by staff of Planning and Design Services.
- 7.13 Following the public hearing, the Commission may take any of the following actions:
 - 7.13.01 Approve or recommend approval of the application as submitted or modified
 - 7.13.02 Deny or recommend denial of the application as submitted or modified
 - 7.13.03 Close the hearing and defer action on the case to a regular business session of the Commission
 - 7.13.04 Continue the hearing to a later date for additional testimony related to the case. If a petition was properly submitted in accordance with KRS Chapter 100 or Metro ordinance requiring the Commission to hold the original hearing in the evening, any continued hearings shall likewise be held in the evening in accordance with the provisions of KRS Chapter 100 or Metro ordinance, whichever is applicable. If the hearing is continued, the Commission may refer the case to any of its committees for further review and scheduling of the continued hearing.

ORDER OF BUSINESS.....8.00

The order of business is a sequence in which business normally occurs at a session. Unless deviation from the normal sequence is requested by a Commissioner or the Director of Planning and Design Services and approved by the Chairman, the order of business shall be as follows:

1. Approval of Planning Commission minutes
2. Consent agenda
3. Non-hearing cases, postponed public hearing cases, subdivision cases, other cases
4. New business, public hearing on each application followed immediately by action (approval, denial, continuance or deferral) on that application. Sustainable permit applications may be prioritized at the discretion of the Chair.
5. Standing Committee report
6. Chairperson/Director's report
7. Adjournment

PUBLIC RECORDS POLICY.....9.00

- 9.01 The Planning Commission shall conform to KRS 61.870 to 61.884 regarding open records.
- 9.02 Planning Commission public records are located in the offices of Planning and Design Services, 444 S. Fifth Street, Suite 300. Regular office hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday. The official custodian of the public records is named by the Planning Director or his designee.

CODE OF ETHICS.....10.00

- 10.01 Members of the Commission and its staff will not accept or solicit money, favors, or gifts which reasonably could influence their official actions.
- 10.02 Members of the Commission and its staff will not use confidential information to obtain money or favors for themselves or others.
- 10.03 Members of the Commission and its staff will not use their official position for personal gain or for the gain of others.
- 10.04 Members of the Commission and its staff will adhere to the standards set forth in the American Planning Association's adopted guidance document entitled "Ethical Principles in Planning," dated May, 1992, as that document may be amended from time to time.
- 10.05 Members of the Commission will comply with the requirements of Metro's Ethics Ordinance as set forth in Chapter 21 of the Louisville/Jefferson County Metro Code of Ordinances.

RECONSIDERATION POLICY.....11.00

- 11.01 Any reconsideration of a recommendation on a rezoning application shall be granted only upon a request by the appropriate legislative body.

BINDING ELEMENT ENFORCEMENT POLICIES.....12.00

For purposes of the Binding Element Enforcement Act, KRS 100.401 *et seq.*, and Chapter 153 of the Louisville Metro Code of Ordinances, the following shall apply:

- 12.01 Violations of binding elements shall be generally categorized as follows:

- 12.01.01 The violation of a binding element shall be considered a Level 1 violation if it can be corrected easily and quickly, and does not cause a nuisance to the public and neighboring property owners;
- 12.01.02 The violation of a binding element shall be considered a Level 2 violation if it is the second violation of the same binding element, if it causes a minor nuisance to the public and neighboring property owners, or if it is difficult or time consuming to correct;

- 12.01.03 The violation of a binding element shall be considered a Level 3 violation if the same binding element has been violated three or more times, if the violation causes a major nuisance to the public and neighboring property owners, or if the violation cannot be corrected.
- 12.02 The fines for uncontested violations of binding elements shall be based on the level of the violation in accordance with the following:
- 12.02.01 Level 1 - \$1000
- 12.02.02 Level 2 - \$2000
- 12.02.03 Level 3 - \$4000
- Each day shall constitute a separate violation for which a separate fine may be assessed.
- 12.03 Fines shall be paid by certified check make payable to the Louisville-Jefferson County Metro Government and delivered by hand or certified mail to the Administrative Official.
- 12.04 The Planning Manager of the Compliance Services section shall function as the Administrative Official for purposes of KRS 100.401 *et seq.*, Chapter 153 of the Louisville Metro Code of Ordinances, and the Binding Element Enforcement Policies of the Planning Commission.
- 12.05 Enforcement officers may issue a citation without a prior warning notice when a violation of a binding element causes a threat to public safety. A “threat to public safety” shall be deemed to exist when the land use enforcement officer reasonably believes that the activity or condition constituting the violation has a substantial likelihood of causing physical injury or danger to the public.
- 12.06 Hearings to contest a citation shall be requested in writing, either by utilizing the hearing request portion of the citation or by letter. Hearing requests by letter shall include the date of issuance of the citation, docket number, specific violation, name and address of the alleged violator, and reasons for dispute of the citation. Hearing requests shall be mailed or hand delivered to the Administrative Official.
- 12.07 The Planning Commission may subpoena alleged violators, witnesses, and evidence to its hearings. Subpoenas shall be signed by the Chairman of the Planning Commission and shall be served by a Land Use Enforcement Officer.
- 12.08 All testimony presented at binding element enforcement hearings shall be under oath, which oath shall be administered at the public hearing by the court reporter, Chairman, or, anyone authorized to administer said oath.
- 12.09 Hearings on binding element violations shall be conducted as follows:

- 12.09.01 The Chairman of the Planning Commission or other presiding officer shall announce the case by stating the docket number, the name of the alleged offender, and the alleged binding element violation.
- 12.09.02 Legal counsel to the Planning Commission shall present the case against the alleged violator, which may include but not be limited to calling witnesses, taking relevant testimony of the land use officer, and witnesses to the alleged violation, and may present any physical, demonstrative, or other evidence. Each witness who is called to testify by legal counsel to the Planning Commission may be cross-examined by the alleged violator or his or her attorney.
- 12.09.03 The alleged violator or his or her attorney may present the case of the alleged violator, which may include but not be limited to calling witnesses, taking relevant testimony of the land use officer, and witnesses to the alleged violation, and may present any physical, demonstrative, or other evidence. Each witness who is called to testify by the alleged violator, or his or her attorney, may be cross-examined by legal counsel to the Commission. The alleged violator may, but shall not be required, to testify.
- 12.09.04 The Planning Commission shall then determine, based on the evidence presented, whether a violation was committed. When the Planning Commission determines that no violation was committed, an order dismissing the citation shall be entered. When the Planning Commission determines that a violation has been committed, it shall issue an order upholding the citation and may order the offender to pay a civil fine in an amount up to the maximum authorized by Chapter 153 of the Louisville Metro Code of Ordinances, without regard to the criteria in Policy 12.02 above, or may order the offender to remedy a continuing violation within a specified time to avoid the imposition of a fine, or both, as authorized by Chapter 153 of the Louisville Metro Code of Ordinances.

History:

Adopted January 30, 1986

2.00 Administrative Policies

Adopted November 6, 1986

Revised February 2, 2012

3.00 Application Procedures

Adopted March 5, 1987

Revised March 20, 2003

Revised February 2, 2012

Revised December 19, 2013

Revised June 4, 2015

Revised February 7, 2019

Revised May 23, 2019

Revised May 21, 2020

4.00 Land Development &

Transportation/Development Review

Committee

Adopted March 5, 1987

Revised April 5, 1990

Revised June 15, 2000

Revised January 17, 2002

Revised March 20, 2003

Revised April 3, 2003

Revised May 18, 2006

Revised February 2, 2012

Revised December 19, 2013

Revised February 7, 2019

5.00 Docket Procedures Policy

Adopted March 5, 1987

Revised March 20, 2003

Revised May 18, 2006

Revised February 2, 2012

6.00 Plan Revisions Policy

Adopted April 5, 1990

Revised June 15, 2000

Revised February 2, 2012

7.00 Public Hearings

Adopted November 1997

Revised January 29, 1998

Revised April 19, 2001

Revised March 20, 2003

Revised May 18, 2006

Revised February 2, 2012

8.00 Order of Business

Adopted July 6, 1995

Revised May 18, 2006

Revised February 2, 2012

9.00 Public Records Policy

Adopted November 6, 1986

Revised March 20, 2003

Revised May 18, 2006

Revised February 2, 2012

10.00 Code of Ethics

Revised February 2, 2012

12.00 Binding Element Enforcement Policies

Adopted October 13, 1998

Revised August 21, 2003

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**ARTICLE VI
Meetings**

Section 7. Special Public Hearing Considerations During State of Emergency

- A. The following shall apply during periods in which in-person public hearings and meetings are prohibited or discouraged by a State of Emergency declared either by the Office of the Governor of Kentucky or Office of the Mayor of Louisville Metro.
- B. Evening Hearing Petitions.
 - 1. The Petition for Evening Public Hearing Downtown (which requires 200 signatures) or the Petition for Evening Public Hearing at Convenient Location (which requires 300 signatures) may still be submitted to Planning & Design Services (PDS) for consideration as permitted and outlined by applicable statute or ordinance.
 - 2. If PDS receives either of these petitions, a hearing date will be scheduled as specified in Table 7.1 in this section.
 - 3. Online petitions may be accepted so long as the petition includes an electronic signature, the signee's full name and address (including ZIP code), and otherwise meet the requirements for signatures on said petition.
 - 4. Submittal of a petition will not halt the review process. Agency reviews and review before the Land Development & Transportation Committee may take place subsequent to petition submittal.
 - 5. PDS staff will schedule a Land Development & Transportation Committee meeting to schedule the public hearing date. Staff will work with the petitioner and applicants to find a suitable location that can accommodate the required social distancing measures.
- C. Any rezoning case that proposes 100 or more housing units; or 100,000 or more square feet of development; or meets the threshold for a traffic impact study as outlined in *Guidelines for Traffic Impact Studies and Air Quality Analysis in Jefferson County, Kentucky* (Appendix 6E of the Land Development Code) shall be subject to the following:
 - 1. An evening public hearing, which interested parties may attend virtually or at a designated in-person location (as outlined in Table 7.1 below), will be scheduled if **EITHER** of the following conditions are satisfied: a.) More than fifty (50) percent of adjoining property owners who are required to be

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notified (per the notification requirements of the Land Development Code) submit opposition; **OR** b.) At least one hundred (100) residents within the Metro Council district and/or those Metro Council district abutting the districts in which the project is located submit opposition. If neither a. nor b. are met, then a public hearing shall be scheduled per the applicable procedures in Section 6.

- a. "Opposition" shall be any letter, email, petition, or other written or electronic form of communication submitted to Planning & Design Services as a statement of opposition to a proposed zoning map amendment or the scheduling of a daytime virtual public hearing for a proposal.
 - b. Opposition shall include the name, address and ZIP code of the person submitting the documentation.
 - c. Opposition shall be submitted at least fifteen (15) calendar days prior to the scheduled public hearing date.
2. PDS staff will schedule a Land Development & Transportation Committee meeting to schedule the public hearing date. Staff will work with the petitioner and applicants to find a suitable location that can accommodate the required social distancing measures.

D. Evening Hearing Guidelines

Table 7.1

Guideline Level	Threshold for Gatherings per Executive Order	Evening Hearing Guidelines
Level 1	Up to 100 people permitted at gatherings per Executive Order	Evening hearings (designated in-person location with livestream viewing/participation available) shall be scheduled for rezoning cases described in 7.B and 7.C above. At least one member of the Planning Commission shall be present at the in-person evening hearing location. All other members may attend virtually. Evening hearing will be livestreamed via software approved by PDS Staff in consultation with Metro IT. All speakers are asked to pre-register at least 24 hours in advance of the start time of a scheduled meeting to assure adequate in-person space and online capacity is available. Speakers who are pre-registered will have priority regarding the order in which they speak. Those who do

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		not pre-register will be allowed to speak at the discretion of the Chair and as time and space allow. Hearings shall be conducted in compliance with the applicable social distancing requirements outlined in the Kentucky Healthy at Work Guidance and Requirements for Venues and Public Spaces (available at https://govstatus.egov.com/ky-healthy-at-work).
Level 2	Greater than 100 people permitted at gatherings per Executive Order	Evening hearings (designated in-person location with livestream viewing/participation available) shall be scheduled for rezoning cases described in 7.B and 7.C above. At least one member of the Planning Commission shall be present at the in-person evening hearing location. All Planning Commissioners may attend evening hearings at in-person meeting location*. Evening hearings will be livestreamed via software approved by PDS Staff in consultation with Metro IT. All speakers are asked to pre-register at least 24 hours in advance of the start time of a scheduled meeting to assure adequate in-person space and online capacity is available. Speakers who are pre-registered will have priority regarding the order in which they speak. Those who do not pre-register will be allowed to speak at the discretion of the Chair and as time and space allow. Hearings shall be conducted in compliance with the applicable social distancing requirements outlined in the Kentucky Healthy at Work Guidance and Requirements for Venues and Public Spaces (available at https://govstatus.egov.com/ky-healthy-at-work).
Level 3	End of State of Emergency	Public hearings resume normal scheduling and operating procedures.

* Planning Commissioner attendance shall be conditioned on being able to accommodate the technological requirements for conducting a proper virtual meeting involving multiple in-person attendees and the Kentucky Healthy at Work Guidance and Requirements for Venues and Public Spaces. Technological challenges that prohibit the proper livestreaming of the event and/or inability to meet the Kentucky Healthy at

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Work Guidance and Requirements for Venues and Public Spaces may result in only one planning commissioner attending meetings.

DRAFT

ORDINANCE NO. _____, SERIES 2021

..TITLE

AN ORDINANCE RELATING TO THE TIME AND LOCATION OF
PLANNING COMMISSION PUBLIC HEARINGS DURING STATES OF
EMERGENCY

..BODY

SPONSORED BY: COUNCIL MEMBER CINDI FOWLER

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government (the “Council”) has closely observed the meetings of the Policies and Procedures Committee of the Louisville Metro Planning Commission (the “Planning Commission”) concerning changes to its By-Laws in light of the ongoing COVID-19 Crisis and related States of Emergency; and

WHEREAS, the changes being discussed concern Section 153.03 of the Louisville Metro Code of Ordinances (“LMCO”) and the process colloquially referred to as “Night Hearings”; and

WHEREAS, Night Hearing requests are important indicators of both citizen desire to participate in the public hearing process for a proposed project and public perception regarding the scale of a proposed project’s impact; and

WHEREAS, the Council believes the proposed changes, even if limited to emergency circumstances, carry significant weight, requiring the interests of residents, developers, Planning and Design staff, the Planning Commission, and others be carefully balanced; and

WHEREAS, the Council also believes that Public Health is of paramount concern during the pendency of the ongoing COVID-19 Crisis; and

WHEREAS, some of the most important steps consistently recommended by leading health experts to combat the spread of COVID-19 are social distancing and the wearing of masks; and

WHEREAS, the Governor of Kentucky had restricted public gatherings to various degrees throughout the COVID-19 Crisis because of the serious Public Health risks associated with such activity; and

WHEREAS, Night Hearings have historically garnered large crowds, often exceeding one hundred people, and holding such meetings during the COVID-19 related States of Emergency puts the health and safety of all attendees at risk.

NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISIVLLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: The Louisville Metro Code of Ordinances § 153.03 is hereby amended to read as follows:

§ 153.03 TIME AND LOCATION OF PLANNING COMMISSION PUBLIC HEARINGS

(A) When public hearing dates are set by the Louisville Metro Planning Commission or a committee thereof, certain requirements must be followed in addition to procedures already in place.

(B) If the hearing has been scheduled at the Planning Commission regular place of business, and, if, no later than 15 days before the scheduled hearing date the Commission or committee thereof receives a pPetition for Evening Public Hearing at a Convenient Location (also known as a Night Hearing) from 300 or more property owners living within the affected Metro Council district and/or adjacent Council districts requesting that the hearing be rescheduled for a time 6:00 p.m. or later at a convenient location, the Planning Commission or committee thereof shall reschedule the hearing to a location in the vicinity of the property that is the subject of the hearing. The location shall be identified by the Planning Commission or committee thereof with input from the affected Metro Council District Office and petitioners, and the government center nearest the property that is the subject of the hearing shall be considered an appropriate location in all cases. The Planning Commission or committee thereof shall ensure that any location selected for the hearing can support a hearing, including the creation of a legally sufficient record of the proceedings. If a location suggested by the Council District Office or petitioners is rejected as inappropriate, the Planning Commission or committee thereof shall document in writing the reasons why the location is not suitable for the hearing. In

the event the nearest Louisville Metro Government Center is the Planning Commission's or committee's regular place of business, the Commission or committee thereof shall not be required to hold the rescheduled meeting at an alternative location, but may schedule the meeting for 6:00 p.m. or later at its regular place of business.

(C) Special Public Hearing Considerations During States of Emergency.

~~(C)~~(D) Should the Planning Commission or committee thereof find the ~~aforsaid~~ necessary ~~p~~Petition for Evening Public Hearing at a Convenient Location to be defective in any manner or if the Planning Commission or committee is unable to reserve the nearest Louisville Metro Government Center or another suitable location for the hearing within two calendar weeks after the originally scheduled hearing date, then the Planning Commission or committee may hold the hearing at its regular place of business but at 6:00 p.m. or later.

SECTION II: This Ordinance shall take effect upon its passage and approval.

Sonya Harward
Metro Council Clerk

David James
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVE AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____