

# Planning Commission

## Staff Report

May 12, 2022



<b>Request:</b>	Update to Planning Commission Policies & Procedures for return to in-person meetings.
<b>Presented by:</b>	Joe Reverman, AICP Assistant Director, Planning & Design Services

### SUMMARY

Since the beginning of the State of Emergency caused by the COVID-19 pandemic, all public hearings and committee meetings have been held virtually with limited in-person attendance from Commissioners, Committee members, staff, applicants and the public. With the end of the State of Emergency, updates to the Planning Commission Policies & Procedures are proposed to reflect a new normal conduct of business for the Planning Commission and its Committees.

Proposed changes were discussed by the Commission's Policies & Procedures Committee over the past 2 months.

The major changes proposed with these amendments are to:

1. Bring the Commission and staff back to a physical location.
  - a. The Committee discussed the option of allowing Commissioners and Committee members to attend virtually. Staff of Planning & Design stated that this is a potential technological hurdle that may cause difficulties. It is also staff's opinion that the physical presence of Commissioners encourages better dialogue and a better experience for the public.
2. Maintain a remote attendance option for the public.
  - a. The Committee would like to require or encourage at least one representative from each case to be present at the physical location.
3. Continue enhanced neighborhood meeting notification for Rezoning cases.
  - a. Everyone on the Committee believed the enhanced notification was beneficial to maintain.
4. Discontinue secondary neighborhood meeting notification for Rezoning cases under future states of emergency.
  - a. This is proposed by staff to be discontinued for future states of emergency.

Summary of proposed changes:

- Sections 6 & 7 of Article VI of the Commission Bylaws were added at the beginning of the State of Emergency to allow the Commission to hold meetings with remote attendance.
  - Section 6 is proposed to change from allowing virtual meetings to allowing virtual attendance of citizens.
  - Section 7 is modified from defining procedures for evening hearings, to defining procedures for all meetings during a State of Emergency.
- Policy 3.05.05 is proposed to require enhanced neighborhood meeting notification to continue permanently.
  - When neighborhood meetings were permitted to be conducted virtually at the beginning of the State of Emergency, the Commission adopted a policy to require an “enhanced notice” that includes a summary of the proposal, a copy of the development plan, a LOJIC map and information on how to obtain more information from PDS.
  - The secondary notice required for virtual meetings would not continue, and is proposed to be stricken as a requirement from future states of emergency.

**Proposed Article VI, Section 6 (REPLACE WITH THIS LANGUAGE)**

Section 6. Remote or Virtual Attendance

- A. Definition. Remote or virtual attendance means the attendance of meetings from a location away from the physical meeting site, using an electronic device to be visible and audible to the Commission or Committee.
- B. If technology permits, the Planning Commission may allow remote or virtual attendance of its meetings, including regular meetings, night hearings, and committee meetings, with the following requirements:
  1. Planning Commission and Committee members and staff must be in attendance, in person, at the physical location.
  2. Remote attendees must be visible and audible to the Planning Commission members synchronous with the live meeting.
  3. If technological issues arise during a meeting that is being conducted with an option for remote attendance, the meeting will only be paused or cancelled if the technology issues are occurring at the physical location. Technological difficulties experienced by a remote attendee will not be cause to delay the meeting.
  4. Virtual meetings shall be hosted on software approved by Planning & Design Services in consultation with the Metro IT department.
  5. At least one person representing the applicant of each case is highly encouraged to attend meetings in person at the physical location. If no representative is present at the physical location, the Commission or Committee may elect to continue the case until a representative is available to attend in person.

- C. Committee Chairs, in consultation with the Director of Planning & Design Services, may elect to allow Committee members and staff members to attend remotely when docketed items do not involve development proposals open to public discussion. A physical location must still be designated for these meetings for those who are unable to attend remotely.

**Proposed Article VI, Section 7**

Section 7. Special Public Hearing **Meeting** 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.

- 1. During a State of Emergency in which in-person public hearings and meetings are prohibited or discouraged, the Planning Commission may allow remote or virtual attendance from Commission or Committee members, Planning Commission staff, applicants, and citizens. A physical, in-person, location must be provided with at least one staff member present.**
- 2. During such a State of Emergency, The Commission and its Committees may allow attendance by phone whereby attendees are not visible. However, Commissioners and Committee members should still be visible.**

- 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 districts abutting the district 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
<b>Level 1</b>	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 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 <a href="https://govstatus.egov.com/ky-healthy-at-work">https://govstatus.egov.com/ky-healthy-at-work</a> ).
<b>Level 2</b>	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 <a href="https://govstatus.egov.com/ky-healthy-at-work">https://govstatus.egov.com/ky-healthy-at-work</a> ).
<b>Level 3</b>	End of State of Emergency or Capacity Restrictions are Lifted	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.