RULES OF PROCEDURE

of the

MIDDLETOWN PLANNING COMMISSION

EFFECTIVE September 19, 2011 (amended November 18, 2019)

FOREWORD

The Rules of Procedure are issued to assist the Middletown Planning Commission in the orderly and efficient conduct of all matters with which the Commission is concerned. In all matters not provided for in these Rules, the applicable rules in the current edition of Robert's Rules of Order Newly Revised govern. All meetings and workshops of the Middletown Planning Commission are subject to the Maryland Open Meetings Act.

OBJECTIVE

The Middletown Planning Commission seeks to conduct all business which may properly come before it by law or custom to secure the harmonious development of the entire Town for the benefit of its present and future inhabitants. The Commission will conduct its business in accordance with the provisions of the Land Use Article (http://www.michie.com/maryland/lpExt.dll?f=templates&eMail=Y&fn=main-h.htm&cp=mdcode/1f224) of the Annotated Code of Maryland as well as these rules of procedure.

Though this Commission recognizes that its powers and responsibilities within the Town do not extend to land outside the Town, the Commission will, where appropriate, assist and coordinate its activities with the County and its planning and zoning agencies, and on request provide staff assistance to those agencies within the limits of available resources. With the County, the Commission seeks out mutual cooperation.

SECTION 1 – DEFINITION

"Authorized Member" shall mean one of the seven members appointed by the burgess with confirmation by the commissioners, one of whom is a town commissioner to serve in an ex officio capacity concurrent with his/her official term, one of whom is designated as an alternate who may sit in the absence of any member of the commission, and one of whom is designated as a temporary alternate to sit on the commission when required.

The word "Commission" shall refer to the Middletown Planning Commission, and consists of five authorized members.

SECTION 2 – OFFICERS AND COMMITTEES

2.1 The Commission shall organize annually in the month of January and elect a Chairman and Vice-Chairman.

The Chairman or in the Chairman's absence, the Vice-Chairman or designated Town Board liaison, shall preside at all meetings or hearings of the Commission. In the absence of an officer, the member with most current continuous Planning Commission service shall preside. The presiding officer shall decide on all points of order and procedure, consistent with these rules and Article 66B.

2.2 A designated member of the Town Commissioners may serve as a member of the Commission having all the rights and privileges of the regularly appointed members, and serve in an ex-officio capacity concurrent with his/her official term.

2.3 Ad-hoc committees may be appointed by the Commission for special purposes or study.

SECTION 3 – MEETINGS

3.1 Regular meetings shall be held on the 3rd Monday of each month. In addition, a workshop shall be held on Wednesday prior to the regular meeting. The staff shall give each member 48 hours or more notice of any change of date of the meeting.

3.2 Special meetings and workshops may be called by the Chairman or in the Chairman's absence the Vice-Chairman. Reasonable notice of a special meeting shall be given each member, 48 hours or more before said meeting. Meetings requiring advertisement or other notice may be called only after the appropriate notice or advertisement is provided.

3.3 Attendance – It shall be the duty of each member to attend all meetings. A member is required to contact the town planner, chair or vice-chair, to notify them of a planned absence which will be deemed excused. Should any member be absent for three consecutive unexcused absences, the Commission shall recommend to the Burgess and Commissioners that the member's resignation be requested, unless determined by vote of a majority of Commission members that there is a sufficient excuse for non-attendance. The Chair shall have the discretion to recommend a member's resignation if that member is absent from one half of all meetings held during the year.

SECTION 4 – VOTING

4.1 A quorum shall consist of four out of five authorized members of the existing membership. A presiding officer must be present to conduct a meeting. No official business can be conducted without the presence of a quorum.

4.2 The order of business shall be in accord with the agenda as approved or modified as the first order of business.

4.3 Questions put to a vote are decided by a majority of the members present and voting. No decision may be made in the absence of a quorum.

4.4 A tie vote by the Commission shall be interpreted as a failure to approve the motion upon which the vote was taken. Additional motions may then be proposed. If a tie vote remains on an advisory matter, the Commission's action shall be deemed as "No-Recommendation". If a motion can not be approved on non-advisory matters (i.e. subdivision, site plan, etc.) then the matter shall be deemed "not approved" but may be brought back before the Commission by the Applicant.

4.5 No member shall vote on a matter in which he (she) has personal involvement or as otherwise specified in the Town's Ethics Ordinance. Unless specifically defined in the Ethics Ordinance, the judgment of a conflict is at the discretion of the member. Members recusing themselves from a commission matter shall leave the dais of the Planning Commission for the duration the matter is being considered. Members are encouraged to consult the Commission's counsel as to the propriety of their voting on any matter which many involve an actual or perceived conflict of interest.

4.6 In order to be eligible to vote, a member should attend all relevant meetings or review the audio, video or transcript of any meetings from which the member was absent. It is a member's obligation to be familiar with any proceedings of any prior meeting on a topic that comes to the PC for a vote.

4.7 The Commission's votes shall be recorded on each motion. Each member shall either vote on each motion (affirmative or negative) or abstain from voting by indicating a desire to abstain. The chair shall announce the results of each vote. All votes will be a voice vote of either positive, negative or abstention unless a raising of hands (counted vote) is requested by the Chair.

SECTION 5 – CONDUCT OF COMMISSION MEMBERS

5.1 Speaking for the Commission – A member will not appear to speak for the Commission except as authorized by the Commission. This includes any public or private statement concerning Commission affairs.

5.2 Ethics Ordinance – Commission members are subject to and must comply with the Town's Ethics Ordinance (Ethics Ordinance 2014 14-05-02) and any other applicable ordinances.

5.3 Conduct at meetings – Members shall conduct themselves at Commission meetings in a fair, understanding and courteous manner. They shall be considerate

of all individuals, attitudes and differences of opinion involved in official Commission business. It is the presiding officer's responsibility to manage the meetings in a manner that is consistent with these rules of conduct.

5.4 Being recognized – Commission members shall only speak after being recognized by the chair. Any member may raise "point of order" if they feel that the item being discussed is inconsistent with the agenda item being discussed or is otherwise not in conformance with the conduct of the Commission's business at hand. It is the presiding officer's responsibility to rule as to whether the "point of order" is valid.

5.5 Ex-parte communications – Commission members shall refrain from ex-parte communication (meaning communication that occurs outside a formal Planning Commission meeting) regarding matters that will likely come before the Commission for decision. It is important to maintain the impartiality and integrity of the Planning Commission. It is also important that Planning Commission decisions be based solely on information presented in public documents and during open and public meetings. Receiving communication outside Planning Commission meetings denies participants the opportunity to respond to all information upon which Commission members may base their decisions.

SECTION 6 – MEETING PROCEDURES

6.1 All agenda items that require an advertised public hearing shall be preceded by notices as prescribed by law in Maryland Code Article 66B and the Middletown Municipal Code. The Planning Commission, based on the size, scope and/or impact of a proposed development, may hold an advertised public hearing for site or subdivision plans, including phased plans, that come before the Commission. In those cases, notification will be sent to residents per the Site Plan Policy of the Town Board, and properly noticed.

6.2 Commission meetings shall be public meetings and subject to the Maryland Open Meetings Act (Annotated Code of Maryland - Maryland State Government – Title 10. Governmental Procedures Subtitle 5. Meetings). (http://michie.lexisnexis.com/maryland/lpext.dll?f=templates&fn=main-h.htm&cp=)

Any person is entitled to appear and be heard by the Commission before it reaches a decision on any matter. Except as otherwise permitted by the Maryland Open Meetings Act, voting shall be held during a public meeting and the Commission shall keep an open record of its resolutions, proceedings and actions which shall be available for public inspection during business hours. Nothing contained herein shall be construed to prevent the Commission from holding closed sessions for discussion of those items as permitted under the Maryland Open Meetings Act.

Summary of MD Open Meetings Act: The Act is based on the General Assembly's policy determination in favor of open decision-making by

governmental bodies. It is applicable to any entities that consist of at least two people and are created by certain formal legal instruments. The Act applies only if a public body is holding a "meeting," which is defined as "convening a quorum of a public body for the consideration or transaction of public business." It does not apply when a public body is carrying out an "executive function," a "judicial function," or a "quasi-judicial function." Exceptions to the Open Meetings Act include permitting a meeting to be closed to protect the privacy of individuals with respect to a matter that is not related to public business, or when the discussion deals with a "personnel matter."

6.3 Recording of Proceedings – It shall be the duty of the Administrative Specialist or Administrative Assistant, assisted by the Commission's staff, to keep a true and accurate record of all proceedings at all meetings and public hearings. A video or audio recording may be accepted as the official record. Minutes shall be prepared, distributed to the individual members, and if approved by the Commission, placed in a record book or file. The Administrative Specialist or Administrative Assistant shall sign the minutes, resolutions, and other official documents, as adopted or approved.

6.4 Anyone may appear in his/her own behalf or be represented by an agent or attorney at a Commission meeting. In the absence of any appearance by or on behalf of the Applicant the Commission will proceed to dispose of the matter on record before it or the Commission may by consensus postpone indefinitely the item and it will only be rescheduled upon proper request by the Applicant.

6.5 The ordinary order of hearing and time limits for testimony (EXCEPT AS PROVIDED IN SECTION 6.6) shall be as follows:
Staff Report & Recommendation
The Applicant or the Applicant's Agent or Attorney (15 minutes)
Public Comment (5 minutes per individual or 10 minutes per organization)
Applicant's Rebuttal (5 minutes);
It is the presiding officer's responsibility to notify the speaker of their time limit prior to the testimony and to notify them when their time has expired.

Additional time for any speaker to address pertinent issues or make a public presentation may be requested in writing at least 7 days (one week) in advance of the meeting. Decisions on whether to grant the additional time shall be made by the Chairman or in their unavailability, by the Vice-Chairman. The additional time granted shall be defined at the time of approval and must be contained in the approved agenda.

6.6 Special Rezoning Meetings – In order to efficiently review rezoning cases in accordance with Sections 17.08.090 and 17.08.100 of the Zoning Ordinance, the following special meeting procedures shall apply.

A. As required in the Zoning Ordinance a public hearing shall be held on rezoning applications. All review of rezoning cases shall take place in a public meeting or workshop. The order of the Agenda of cases shall be determined prior to the meeting by the Staff Planner.
B. Applicant testimony, the staff report, and reviewing agency comments will be presented to the Planning Commission at the Public Hearing held for this purpose.
C. Public testimony will be permitted in connection with review of rezoning applications during public hearings held for this purpose. The date and time of these hearings will be advertised no less than 14 days in advance of the hearings. The ordinary order of hearing and time limits for testimony shall be as follows:

Staff report & Recommendation
The Applicant or the Applicant's Agent or Attorney (30 minutes)
Public Comment (5 minutes per individual or 10 minutes per organization)
Applicant's Rebuttal (5 minutes)

D. Written comments must be filed in advance of or at the Planning Commission meeting in order to be considered by the Commission in making its decision. Extensions may be granted by the action of the Chair.
E. The Planning Commission shall base its findings and recommendations on the information presented and within the time limits as required in the Zoning Ordinance.

6.7 The Commission may postpone to a time certain any case due to lack of quorum or for further study and information as determined by the Commission but in no event longer than six (6) months, except where otherwise provided by law.

6.8 The Commission may require any additional relevant Planning materials in the form of maps, charts, reports, and studies, in order to reach a decision.

6.9 The presiding officer will allow reasonable cross-examination/testimony of interested parties at a time and in a manner considered reasonable by the presiding officer under the circumstances. An issue may be postponed for one month to achieve this information if in the presiding officer's opinion such information would provide new or relevant information related to the matter under consideration.

SECTION 7 – PROCEDURE IN BRINGING MATTERS BEFORE THE COMMISSION

7.1 The agenda shall be prepared by the staff who will consult with the Chairman on such matters of the agenda as may be appropriate. Members of the Commission who wish to add to the agenda shall first notify the Chairman of their request at least 7 days prior to the meeting.

7.2 Miscellaneous requests and petitions shall, from time to time, come before the Commission, either upon the initiation of an individual or agency or by reference from the governing body. In all cases, the Commission shall be guided by the principles set forth in the "Comprehensive Plan"; the "Subdivision Regulations"; the "Zoning Ordinance"; and rules, regulations and ordinances of the Town. All such matters shall be handled with as much dispatch as possible.

7.3 Any agenda item continued by the Commission shall not be rescheduled for 60 days unless otherwise provided by a majority vote of the Commission, or otherwise provided by law.

SECTION 8 – FINAL DISPOSITION OF COMMISSION MATTERS

8.1 The disposition of all formal petitions and requests before the Commission requiring further action by the Burgess & Commissioners shall be in the form of a letter of recommendation to the Burgess & Commissioners. In all matters, the Applicant shall be notified by letter of the action taken by the Commission.

8.2 Upon approval of a site plan by the Commission, a statement will be added to the site plan approval letter to the applicant stating that no Use & Occupancy permit shall be granted until all conditions of approval are completed. The applicant shall appear before the Commission at a regularly-scheduled meeting at least 30 days ahead of the anticipated opening date of the business to review for compliance with the approved plans, and shall notify the Staff Planner at least 10 days ahead of the anticipated opening date to check the property for compliance.

SECTION 9 – DELEGATION OF AUTHORITY

9.1 The Chairman shall and may delegate some of its authority to the vice-chair or Staff Planner in order to expeditiously and efficiently perform the work of the Commission. This would include such items as the signing of subdivision plat approvals and letters when the Commission has approved such documents. In the absence of the chairman, the vice-chair, or Staff Planner may perform this work in order to expeditiously dispose of these administrative matters.

SECTION 10 – COMMISSION – STAFF RELATIONSHIPS

10.1 The Staff Planner or his/her designees is the normal contact for all routine communications between Commission members and the staff. The Staff Planner is also the normal contact for preliminary/final plats and site plan agenda items. Commission members take no part in the daily routine or administration of regulations and research of matters of fact, although they do participate in field trips and discussions pertaining to the more significant matters to be considered at

Commission meetings. Issues of conflict in this realm can be raised to the Commission or Chairman for direction.

10.2 Matters of policy and important changes in the administration of the Commission's affairs are developed by the Staff Planner on behalf of the Commission and presented for resolution to members at regular meetings.

SECTION 11 – AMENDMENTS

Amendments to these rules of procedure may be introduced at any meeting and recorded in the minutes. The Commission will then vote on any such amendments at any subsequent regular meeting with passage requiring majority vote of the membership.

The foregoing is a true and correct copy of the Rules of Procedure of the Middletown Planning Commission as amended on the 20th day of June 2016.

ATTEST:

Mark Carney, Chairman

Date 11/19/19

APPENDIX A

ANNOTATED CODE OF MARYLAND
LAND USE ARTICLE

http://www.michie.com/maryland/lpExt.dll?f=templates&eMail=Y&fn=main-h.htm&cp=mdcode/1f224