



WILDWOOD

City of Wildwood

WORK SESSION

PLANNING AND ZONING COMMISSION

Agenda for the Monday, May 6, 2019 Meeting

5:30 p.m. to 6:15 p.m.

City Hall ~ Community Room

16860 Main Street 63040

This Meeting will be “Livestreamed” by the City of Wildwood

- I. Welcome And Call To Order By Acting Chair
- II. Roll Call Of Planning And Zoning Commission Members
- III. Opening Remarks By Acting Chair
- IV. Review Of Tonight's Agenda Item, Including The Packet Of Information For The Same
- V. Public Comments
- VI. Overview And Discussion Of Current By-Laws Of The Planning And Zoning Commission And Possible Changes

Documents:

1. BY-LAWS 2019 V4 - MAY 6, 2019.PDF
2. PLANNING AND ZONING COMMISSION BYLAWS_J.YOUNG.PDF
3. 4 CSR 240-4.015 - GENERAL DEFINITIONS.PDF
4. 4 CSR 240-4.020 - EX PARTE COMMUNICATIONS.PDF
5. SECT. 386.210 RSMO. - CONFERENCES LIMITATION ON COMMUNICATIONS--COOPERAT...PDF

1. Brief Summary Of The Discussion On Items From The April 15, 2019 Meeting On The By-Laws
2. Discussion And Consideration Of Remaining By-Laws Prepared By The Department Of Planning For Consideration

3. Consensus On Direction, Including Any Changes, Additions, And/Or Deletions

VII. Closing Remarks And Adjournment By Acting Chair

If you would like to submit a comment regarding an item on this meeting agenda, please visit the [Form Center](#).

Note on Agenda: *The Planning and Zoning Commission will consider and act upon these matters listed above and any such others as may be presented at the meeting and determined appropriate for discussion at that time.*

Accessibility and Accommodations for All Groups: *The City of Wildwood will provide reasonable accommodations for persons attending Planning and Zoning Commission meetings. Requests for reasonable accommodations should be directed to Jessica Stirmlinger, Deputy City Clerk, at 636-458-0440, or via email at jessica@cityofwildwood.com, at least 48 hours prior to the start of the meeting.*



WILDWOOD

BY-LAWS OF THE PLANNING AND ZONING COMMISSION

Prepared by the Department of Planning

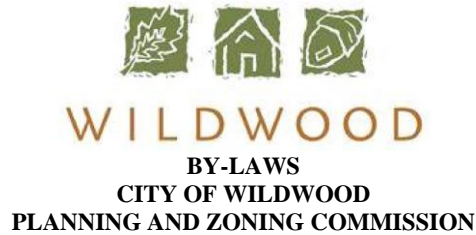
Draft Review: April 15, 2019/2nd Draft Review – May 6, 2019

As was noted at the Planning and Zoning Commission’s meeting on April 15, 2019, the Department of Planning has reviewed the compilation of articles and By-Laws from other communities that was requested and provided to it by the American Planning Association (APA), along with considering the current requirements and practices of the same, and has developed this list of possible items for inclusion in the current set of by-laws. These items are for consideration and may not reflect items the members of the Planning and Zoning Commission may want to discuss for possible inclusion, change, or otherwise deletion in this same regard. The items that were discussed at the April 15, 2019 Work Session of the Planning and Zoning Commission have not been updated to reflect its direction on the first six (6) considerations on the list, which have been shaded to identify the location where the discussions of the proposed By-Laws concluded and now should begin.

#	Item for Inclusion	Draft Wording	Rationales
1.	Define quorum	A quorum shall be required to conduct the business of the Planning and Zoning Commission. A quorum may vary based upon the actions that are being required or requested. No action other than procedural types shall be approved without a minimum of a majority of the seated Planning and Zoning Commission, i.e. six (6) of the ten (10) members. Said amount shall be changed, if the Mayor chooses not to serve as a member of the Planning and Zoning Commission, i.e. five (5) of the nine (9) members.	Current policy and practice of the Planning and Zoning Commission, which would now be memorialized.
2.	Add ethics provisions or references	The Planning and Zoning Commission and its members shall adhere to, and be bound by, the applicable City and State guidelines and codes covering ethical conduct. No member shall use his/her position, or derived information for personal use or gain, as specified in the applicable guidelines and codes.	Missing component, which almost all by-laws reviewed by the Department of Planning currently contain.
3.	Process relating to vacancies on Commission	Vacancies on the Planning and Zoning Commission shall be filled in accordance with Chapter 400, Article I Planning and Zoning Commission of the City of Wildwood Code of Municipal Ordinances. Terms of members of the Planning and Zoning Commission that have expired can continue to serve upon it, until otherwise replaced or reappointed.	Current policy and practice of the Planning and Zoning Commission, which would now be memorialized.
4.	Define meeting types	Meeting Types: The Planning and Zoning Commission has six (6) different meeting types, all intended to provide specific outcomes from them. These meeting types include the following: <ol style="list-style-type: none"> 1. Regular – held on the first and third Mondays of each month. 2. Special – as needed and can be called by the Chair of the Planning and Zoning Commission or a minimum of three (3) members of the body itself. 3. Work Session – a special session of the Planning and Zoning Commission authorized by a majority vote of the available members acting on the request and generally limited to one (1) topic of interest. 4. Site Visit – a special session of the Planning and Zoning Commission authorized by a majority vote of the available members acting on the request and conducted at a site or sites under review by its members. If a majority of members of the Planning and Zoning Commission attend the meeting, i.e. six (6) of ten (10), the public may attend as well, with the property owner(s) permission. A policy was adopted in this regard by the Planning and Zoning Commission on August 6, 2018. 	Adds an informational aspect to the by-laws, while ensuring how these meetings are called and for what purposes.

#	Item for Inclusion	Draft Wording	Rationales
		<p>5. Subcommittee(s) – see Article VI of these By-Laws for said descriptions.</p> <p>6. Workshops and Training Sessions- special sessions of the Planning and Zoning Commission authorized by a majority vote of the available members acting on the request and generally limited to one (1) topic of interest.</p>	
5.	Committee structure	<p>All committees of the Planning and Zoning Commission shall be led by the currently seated Chair of the Planning and Zoning Commission, as an ex-facto member of it. Committees of the Planning and Zoning Commission shall contain a minimum of four (4) members, but any member can attend any meeting of them and participate and vote on the matters before them. This Committee structure shall not apply to the selection of officers for the Planning and Zoning Commission, which is detailed in Article III, Item #1.</p>	<p>Current policy and practice of the Planning and Zoning Commission, which would now be memorialized.</p>
6.	Outside meetings - ExParte Communications	<p>In no instance shall a member or members of the Planning and Zoning Commission meet as an individual or on a collective basis with any outside party that has an active item, is anticipating, or currently underway with the same before it, without the Department of Planning being present or other official of the City of Wildwood. If a quorum of members of the Planning and Zoning Commission is present regarding such, it shall constitute a meeting and meet all requirements of the same. This prohibition shall not extend to the Mayor or the City Council Member liaison that sit on the Planning and Zoning Commission.</p>	<p>Missing component, which almost all by-laws reviewed by the Department of Planning currently contain.</p>
7.	Statement of Purpose	<p>The Commission shall have the necessary power and authority to carry out the following purposes:</p> <p>a. Adopt and promulgate and amend rules, regulations and procedures, not inconsistent with the laws and ordinances of the City of Wildwood, for the operation of said Commission and carrying out of the provisions of Chapter 400, Article I.</p> <p>b. Have general supervision of the enforcement of any zoning ordinances enacted by the City Council.</p> <p>c. Adopt a comprehensive City plan as defined in Section 89.340, RSMo.</p> <p>d. Prepare or revise a zoning plan for the City of Wildwood which shall conform to the provisions of Sections 89.010 through 89.144, and Sections 89.300 through 89.490, RSMo., 1994, as amended, or as shall hereafter be revised or amended, and which shall include recommendations to the City Council.</p> <p>e. Take all such actions and hold such other powers as authorized by the City's Charter, Chapter 400, Article I of the City of Wildwood's Code of Municipal Ordinances, and Sections 89.300 through 89.480, RSMo.</p>	<p>Current language from Municipal Code, but provides support to opening statement of By-Laws, which references the Planning and Zoning Commission's powers and authorities.</p>
8.	Motions - General Types	<p>The Planning and Zoning Commission generally shall take the following actions relative to motions on agenda items before it:</p> <ul style="list-style-type: none"> • To Discuss • Deny, with prejudice • Deny, without prejudice • Approve • Approve, with conditions • Postpone, including to a date certain • Postpone, indefinitely • Withdraw • Table 	<p>Adds an informational aspect to the by-laws, while offering a resource for any future questions in this regard, along with providing clarity to the Planning and Zoning Commission's decision making processes.</p>
9.	Seating Arrangement - Chair	<p>The Chair of the Planning and Zoning Commission shall set the seating order of the members at the dais, with preference given to the Vice-Chair and Secretary of the Planning and Zoning Commission being located on either side of him or her.</p>	<p>Current policy and practice of the Planning and Zoning Commission, which would now be memorialized.</p>
10.	Public Hearing Guidelines Booklet	<p>The Planning and Zoning Commission shall make available to all public hearing attendees a Public Hearing Guidelines Booklet, which explains the procedures and processes of them, including public comment rules and timeframes. The booklet shall be provided at the location of the public hearing for attendees to easily find and receive a copy of it.</p>	<p>Current policy and practice of the Planning and Zoning Commission, which would now be memorialized.</p>

#	Item for Inclusion	Draft Wording	Rationales
		The booklet shall be updated, if procedures or processes of the public hearing are changed by the Planning and Zoning Commission, with said responsibility being assigned to the Department of Planning.	
11.	Annual Work Program – Planning Tool	<p>The Planning and Zoning Commission shall, at its last meeting of the calendar year receive from the Department of Planning a Work Program for the upcoming year for the members’ discussion, input, and adoption, before the last meeting of January in the following year.</p> <p>This Work Program shall be updated every quarter with the Planning and Zoning Commission and Department of Planning to ensure items identified upon it are being addressed, while also adding new considerations or efforts to it. In no such instance shall the Work Program be considered binding, if ordinance established duties and responsibilities absorb the Planning and Zoning Commission’s available time.</p> <p>A copy of the approved Work Program of the Planning and Zoning Commission shall be forwarded to the City Council for receipt and filing.</p>	New item to assist the Planning and Zoning Commission members in the completion of their duties.
12.	Year End Report	The Department of Planning will provide, at the last scheduled meeting of the calendar year, a report on the activities of the Planning and Zoning Commission for that period of time. A copy of this Year End Report of the Planning and Zoning Commission shall be forwarded to the City Council for receipt and filing.	New item to assist the Planning and Zoning Commission members in the completion of their duties.
13.	Cancellation of Petitions - Policy in Place	A request for a postponement of an agenda item that has been published and posted for public hearing by the Planning and Zoning Commission must be received before 5:00 p.m. on the Thursday prior to the hearing date to be automatically granted. If the notice is not received before this deadline, the petitioner must appear in person at the Planning and Zoning Commission meeting to request the postponement. Granting of a postponement at that time is strictly at the discretion of the Planning and Zoning Commission.	Current policy and practice of the Planning and Zoning Commission, which would now be memorialized.
14.	Severability Clause	<p>If any term, condition, or provision of these By-Laws shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Planning and Zoning Commission that it would have enacted in these By-Laws without the invalid or unenforceable provisions.</p> <p>In the event of a subsequent change in applicable law so that the provision, which had been held invalid, is no longer invalid, said provision shall thereupon return to full force and effect without further action by the Planning and Zoning Commission and shall thereafter be binding.</p>	New item intended to provide protection to the Planning and Zoning Commission’s By-Laws and their administration and application, if ever challenged relative to the same.
15.	Identify Livestreaming of Meetings	All regular meetings of the Planning and Zoning Commission shall be livestreamed. Closed Sessions of the Planning and Zoning Commission shall not be livestreamed. Subcommittee meetings workshops, and any other meetings of the Planning and Zoning Commission shall be at the discretion of the Planning and Zoning Commission.	New item based upon the current direction and action of the City Council, which directed that every meeting be broadcast, when possible.
16.	Tie Vote	A tie vote on any agenda item by the Planning and Zoning Commission shall be deemed to have failed for a lack of majority.	Current policy and practice of the Planning and Zoning Commission, which would now be memorialized.
17.	Development and Zoning Review Committee Participation	The Chair of the Planning and Zoning Commission shall serve on the Development and Zoning Review Committee (DZRC), along with the City Council liaison to the Planning and Zoning Commission.	New item to reflect the creation of this entity, which is to assist the Planning and Zoning Commission in the administration of its land use duties and responsibilities herein.



WILDWOOD
BY-LAWS
CITY OF WILDWOOD
PLANNING AND ZONING COMMISSION

ARTICLE I - OBJECTIVES

The powers and duties, procedures, and polices of the Planning and Zoning Commission are as established by the Charter of the City of Wildwood, Missouri, City of Wildwood Ordinances, ~~as amended and supplemented,~~ and the relevant statutes of the State of Missouri, ~~as each may be amended from time to time as amended and supplemented, relating to Charter Cities.~~

ARTICLE II - OFFICERS AND THEIR DUTIES

Section 1. The Planning and Zoning Commission shall consist of such members as may be set forth by law or ordinance. Subject to the right of resignation, all members of the Planning and Zoning Commission shall hold office for the term thereof, and until their successors are duly appointed and qualified.

Section 2. The officers of the Planning and Zoning Commission shall be elected by members fo the Commission and shall consist of a Chair, Vice-Chair, and a Secretary/Treasurer. Each officer shall be a member of the Planning and Zoning Commission.

Section 23. The Chair of the Commission shall have the following powers and duties:

- (a) To preside at all meetings and hearings of the Commission;
- (b) To appoint Commission members to its respective Committees;
- (c) To have general charge of the activities of the Planning and Zoning Commission and generally oversee the conduct of its affairs;
- (d) To call Special Meetings of the Commission;
- (e) To carry out other duties normally conferred by parliamentary usage on such officer; and
- (f) Engage in other activities as directed by the Planning and Zoning Commission.

Section 34. The Vice-Chair of the Planning and Zoning Commission shall have the following

powers and duties:

- (a) To act for the Chair in the Chair's absence;
- (b) To perform all duties normally conferred by parliamentary usage on such officer; and
- (c) Engage in other activities as directed by the Planning and Zoning Commission.

Section 45. The Secretary/Treasurer of the Planning and Zoning Commission shall have the following duties:

- (a) To act for the Chair and Vice-Chair in their absence;
- (b) To certify and maintain a record of each meeting and hearing of the Planning and Zoning Commission. The Secretary/Treasurer may delegate this responsibility to the Director of Planning;
- (c) To attend to correspondence of the Planning and Zoning Commission. The Secretary/Treasurer may delegate this responsibility to the Director of Planning;
- (d) To give to each Commission Member due notice of the time and place of each Annual, Regular, or Special Meeting and each Public Hearing of the Commission. The Secretary/Treasurer may delegate this responsibility to the Director of Planning;
- (e) To carry out other duties normally conferred by parliamentary usage on such officer; and
- (f) To engage in other activities as directed by the Planning and Zoning Commission.

ARTICLE III - ELECTIONS OF OFFICERS

Section 1. A nominating committee of not less than four (4) Commissioners shall be appointed by the serving Chair of the Planning and Zoning Commission at the second meeting in June of each year to nominate officers of the Planning and Zoning Commission for the following year. The committee shall report to the full membership at the second meeting of the Planning and Zoning Commission in July, with the election of the officers occurring no later than the second meeting of August. Nominations may also be entertained from the floor at this second meeting in July. The new officers, being duly elected, shall take office at the first meeting of the Planning and Zoning Commission following its election and administer said office for one (1) year or until their successors are appointed.

- Section 2. The Chair may request nominations for two (2) or three (3) officers simultaneously or, at discretion of the Chair, require a separate nomination and vote for each officer.
- Section 3. A candidate receiving a majority vote of the Planning and Zoning Commission shall be declared elected.
- Section 4. A vacancy in office shall be filled as soon as possible in accordance with the election procedure set forth herein or by a special election as directed by the Chair of the Commission.

ARTICLES IV — MEETINGS

- Section 1. A Meeting of the Planning and Zoning Commission shall be held on the first and third Mondays of each month at 6:30 p.m. in the City Council Chambers, unless otherwise specified by the Chair.
- Section 2. ~~An additional or s~~Special meetings may be called ~~by the Chair, or at the request in writing of any three (3) or more members of the Commission as set forth in the Code of Ordinances of the City of Wildwood, Missouri, as amended.~~
- Section 3. A simple majority of the membership of the Commission shall constitute a quorum (six (6) members) for the transaction of Commission business. Each member of the Commission shall have one (1) vote.
- Section 4. The granting of a Conditional Use Permit, the submittal of a recommendation of approval of a zoning amendment, or the approval of a plan/plat shall require the affirmative vote of at least six (6) members of the Planning and Zoning Commission. All other matters may be approved by a majority of the members present. Any member of the minority may request a minority report be issued.
- Section 5. In the absence of the Chair, Vice-Chair, and Secretary/~~Treasurer~~, the member present who is senior, in terms of service on the Planning and Zoning Commission, shall preside over the meeting.
- Section 6. Except as otherwise specified by these by-laws, Robert's Rule of Order shall prevail at all meetings of the Commission.
- Section 7. The order of business at Meetings shall be:
- (a) Approval of minute of previous meetings and hearings;
 - (b) Public Hearing;
 - (c) Old Business;
 - (d) New Business;
 - (e) Site Plans, Building Elevations, and Signs;

- (f) Other;
- (g) Reports of officers and committees; and
- (h) Adjournment.

Section 8. The Chair of the Commission, or majority of the Planning and Zoning Commission, may alter the order of business at any meeting.

ARTICLE V - PUBLIC HEARING

Section 1. A Public Comment Session shall be held at the beginning of each meeting as required by City of Wildwood Ordinance 27. The Public Hearings shall be held at City Hall as specified by Article IV, Section 4 of these By-laws, unless specified by the Chair.

Section 2. The order of business at a public hearing shall be as indicated in the public notice thereof.

Section 3. The Chair of the Commission, or a majority of the Planning and Zoning Commission, may alter the order of business at the public hearing.

Section 4. The rules of procedure governing public hearing shall be:

- (a) The number of petitions will not exceed two (2) per agenda, unless related petitions are presented and heard together, at which time there may be four (4) per agenda.
- (b) The Chair of the Planning and Zoning Commission may grant an exception to the number of petitions per agenda when necessary under special conditions.
- (c) The petitioner, or representative of the petitioner, shall be granted fifteen (15) minutes per hearing to explain the petition.
- (d) Speakers in favor or opposed to a petition shall be granted five (5) minutes when representing a group or organization.
- (e) Speakers in favor or opposed to a petition shall be granted three (3) minutes when not representing a group or organization.
- (f) The Chair of the Commission may authorize an exception to the time limit allotted to the petitioner, representative, or speakers in favor/opposition, when necessary under special conditions or unusual circumstances.

Section 5. The Planning and Zoning Commission shall maintain, and make available, a copy of the 'Public Hearing Guidelines' at its meetings, where an agenda item requires public comment.

ARTICLE VI - COMMITTEES

Section 1. At the next meeting following the election, the Chair of the Planning and Zoning Commission shall appoint, for a term of one (1) year, members of the Commission to each of the following standing committees and shall designate a Chair of each:

(a) Ordinance and Master Plan Review Committee: This Committee shall have primary responsibility for reviewing, advising, and directing the Department of Planning staff on ordinances affecting the planning process as it relates to specific development and land use control authorities. Additionally, this Committee shall review and update the progress of the City in implementing the objectives and policies of the Master Plan. When necessary, it shall be their responsibility to recommend changes to it to insure its relevance and timeliness. A minimum of three (3) from the Commission will serve on this committee.

(b) Site Plan Review Committee: This Committee shall have primary responsibility for reviewing and advising the Department of Planning staff on site development plan approvals and landscaping requirements. Each member of the Planning and Zoning Commission may serve on this Committee, but a minimum of three (3) members must be in attendance for it to conduct business, with two (2) or more affirmative votes required for action on any item before it. A participant of the Architectural Review Board may be a non-voting member of the Site Plan Review Committee and assist in the review of materials under the Planning and Zoning Commission's purview.

(c) Architectural Review Board: At least one (1) member of the Planning and Zoning Commission may represent it at the regularly scheduled meetings of the Architectural Review Board (second Thursday of each month). A call list shall be maintained, in alphabetical succession, by the Department of Planning and Parks of the Planning and Zoning Commission's citizen appointees and at least one (1) such member shall be notified of the next upcoming meeting of the Architectural Review Board.

(d) Historic Preservation Commission: At least one (1) member of the Planning and Zoning Commission may represent it at the regularly scheduled meetings of the Historic Preservation Commission (third Wednesday of each month). A call list shall be maintained, in alphabetical succession, by the Department of Planning and Parks of the Planning and Zoning Commission's citizen appointees and at least one (1) such member shall be notified of the next upcoming meeting of the Historic Preservation Commission.

Section 2. The Chair of the Commission, with the approval of its members, may appoint special committees.

Section 3. The Chair of the Commission shall fill a committee's vacancy.

Section 4. The Chair of the Commission, with the approval of its members, may appoint a person who is not a member of the Planning and Zoning Commission or the Department of Planning staff as an advisory participant to a committee.

Section 5. These committees shall meet at a time and place set by the Chair of the Committee.

ARTICLE VII - DIRECTOR OF PLANNING

Section 1. The Director of Planning shall provide staff assistance to the Planning and Zoning Commission and shall perform those duties required by law or delegated to him or an officer thereof.

Section 2. The Director of Planning shall appoint as necessary, a member of the Department of Planning staff to meet with, work for, and advise any delegated Committee of the Commission.

Section 3. The Director of Planning and/or City Attorney shall provide parliamentary assistance on the conduct of business as requested by the Chair of the Commission.

ARTICLE VIII - AMENDMENTS OF BY-LAWS

Section 1. These By-laws may be amended by an affirmative vote of not less than six (6) members of the Planning and Zoning Commission.

ARTICLE IX - CODE OF ETHICS

Section 1. In addition to the requirements of Sections 105.450 to 105.496, RSMo., Sections 105.955 to 105.963, RSMo., and Chapter 125 of the Code of Ordinances, as each may be amended from time to time, action by any member of the Commission with respect to any matter which is or may be the subject of an official act or action(s) of the Commission shall be determined to be a conflict of interest under the following provisions:

(a) Soliciting, accepting or granting a present of future gift, favor, service, employment, or thing of value from a person or business involved in any action before the Commission; and

(b) Having an interest in any business entity or person representing, advising or appearing on behalf of, whether paid or unpaid, any person involved in any action before the Commission.

Section 2. In the event that any member of the Commission shall have a conflict of interest, the individual shall be disqualified to act in any capacity in said matter, and shall inform the Chair of the Commission of the conflict of interest prior to involvement in said matter by the member.

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Adoption and Revision Dates:

Original Draft - September 11, 1995
Revised Draft - October 16, 1995 [Passed By-Laws; changed months from May to June.]
June 1996 [Extended terms by City Council; changed months from June to July.]
August 19, 1996 [Revised order of business and modified subcommittees.]
September 3, 1996 [Revised order of business]
September 7, 1999 [Committee membership and election of officers]
May 19, 2003 [Modified election of officers and Committee descriptions]
July 7, 2008 [Modified the month relating to election of officers]
August 1, 2016 [Changed meeting time from 30 p.m. to 6:30 p.m.. eliminated Public Comment as an item of the Order of Business at the start of Commission meetings; and added "Other" to the Order of Business]

Editor's Note: Changes shown in bolded and underlined type and deletions by a single, strike-through line.

Missouri Code of State Regulations <small>Currentness</small>
Title 4 - Department of Economic Development
Division 240 - Public Service Commission
Chapter 4 - Standards of Conduct

4 Mo. Code of State Regulations 240-4.015

4 CSR 240-4.015 General Definitions

PURPOSE: This rule sets forth the definitions of certain terms used in rules 4 CSR 240-4.017 through 4 CSR 240-4.050.

(1) Case—Any matter filed before the commission for its determination except working dockets, rulemaking dockets, and investigatory dockets.

(2) Commission—Means the Missouri Public Service Commission as created by Chapter 386, RSMo.

(3) Commissioner—Means one (1) of the members of the Missouri Public Service Commission.

(4) Commission staff—Commission employees who report to the Staff Director.

(5) Discussed case—A case or noticed case that includes, or will likely include, substantive issues that are the subject of an *ex parte* or extra-record communication regulated under this rule.

(6) *Ex parte* communication—Any communication outside of the case process between a member of the office of the commission and any party, or the agent or representative of a party, regarding any substantive issue in, or likely to be in, a case or noticed case. *Ex parte* communications shall not include a communication regarding general regulatory policy allowed under section 386.210.4, RSMo, communications listed in 4 CSR 240-4.040, communications made thirty (30) days or more after the commission issues a final determination in a case, or communications that are *de minimis* or immaterial.

(7) Extra-record communication—Any communication outside of the case process between a member of the office of the commission and any person not a party to a case or noticed case regarding any substantive issue in, or likely to be in, that case or noticed case. Extra-record communications shall not include communications regarding general regulatory policy allowed under section 386.210.4, RSMo, communications with members of the general assembly or other government official allowed under section 386.210.5, RSMo, communications listed in 4 CSR 240-4.040, communications made thirty (30) days or more after the commission issues a final determination in a case, communications between the office of the commission and

commission employees who are not commission staff, or communications that are *de minimis* or immaterial.

(8) Final determination—A decision of the commission that resolves a case, including all applications for rehearing and reconsideration.

(9) Noticed case—Any case for which a notice of a case has been filed in compliance with [4 CSR 240-4.017](#).

(10) Office of the commission—Commissioners, a commissioner, a member of the commission’s advisory staff, or the commission’s regulatory law judges.

(11) Party—Any applicant, complainant, petitioner, respondent, intervenor, or person with an application to intervene pending in a case or noticed case before the commission. Commission staff and the public counsel are also parties unless they file a notice of their intention not to participate in the relevant proceeding within the period of time established for interventions by commission rule or order.

(12) Person—Any individual, partnership, company, corporation, cooperative, association, political subdivision, or any other entity or body.

(13) Public counsel—Shall have the same meaning as in [section 386.700, RSMo](#).

(14) Substantive issue—Merits of specific facts, evidence, claims, or positions specific to a case or noticed case that have been or are likely to be presented or taken in that case. The term substantive issue does not include procedural issues, unless those procedural issues are contested or likely to materially impact the outcome of a case.

AUTHORITY: [section 386.410, RSMo 2016](#) [FNa] *Original rule filed Nov. 28, 2016, effective July 30, 2017.*
[FNa]

. Original authority: [386.410, RSMo 1939](#), amended 1947, 1977, 1996.

Current through February 28, 2019

4 Mo. Code of State Regulations 240-4.015, 4 MO ADC 240-4.015

Missouri Code of State Regulations <small>Currentness</small>
Title 4 - Department of Economic Development
Division 240 - Public Service Commission
Chapter 4 - Standards of Conduct

4 Mo. Code of State Regulations 240-4.020

4 CSR 240-4.020 Ex Parte Communications

PURPOSE: To set forth the standards to promote the public trust in the commission with regard to pending filings and cases. This rule regulates communication between members of the office of the commission and parties regarding substantive issues.

(1) Neither any party nor any member of the office of the commission shall initiate, participate in, or undertake, directly or indirectly, an *ex parte* communication.

(A) If such a communication occurs, the party and the member of the office of the commission involved in the communication should immediately terminate the communication.

(2) A party or member of the office of the commission who initiates an *ex parte* communication shall, within one (1) business day, following such communication give notice of that communication as follows:

(A) If the communication is written, the initiating party shall file a copy of the written communication in the official case file for the discussed case; or

(B) If the communication is not written, the initiating party shall file a memorandum disclosing the communication in the official case file for each discussed case. The memorandum must contain a list of all participants in the communication; the date, time, location, and approximate duration of the communication; the means by which the communication took place; and a summary of the substance of the communication and not merely a listing of the subjects covered. Alternatively, a recording or transcription of the communication may be filed, as long as that recording or transcription indicates all participants and the date, time, location, approximate duration, and means of communication.

(3) If an *ex parte* communication occurs and the initiating party fails to file a notice in the manner set forth in section (2), any other party or member of the office of the commission involved in the communication, upon learning of the person's failure to file such notice, shall give notice of the *ex parte* communication in the manner set forth in section (2) as soon as practicable but no later than three (3) days later.

(4) The commission may issue an order to show cause why sanctions should not be ordered against any party engaging in an *ex parte* communication.

AUTHORITY: section 386.410, RSMo 2016. [FNa] Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed April 26, 1976, effective Sept. 11, 1976. Rescinded and readopted: Filed Nov. 4, 2009, effective July 30, 2010. Rescinded and readopted: Filed Nov. 28, 2016, effective July 30, 2017.

[FNa]

. *Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

Current through February 28, 2019

4 Mo. Code of State Regulations 240-4.020, 4 MO ADC 240-4.020

End of Document

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Vernon's Annotated Missouri Statutes

Title XXV. Incorporation and Regulation of Certain Utilities and Carriers

Chapter 386. Public Service Commission (Refs & Annos)

Powers and Duties of the Commission (Refs & Annos)

V.A.M.S. 386.210

386.210. Conferences, limitation on communications--cooperative agreements, investigations authorized--funds may be received and distributed, how--regulatory and judicial proceedings, intervening permitted

Effective: August 28, 2013

[Currentness](#)

1. The commission may confer in person, or by correspondence, by attending conventions, or in any other way, with the members of the public, any public utility or similar commission of this and other states and the United States of America, or any official, agency or instrumentality thereof, on any matter relating to the performance of its duties.
2. Such communications may address any issue that at the time of such communication is not the subject of a case that has been filed with the commission.
3. Such communications may also address substantive or procedural matters that are the subject of a pending filing or case in which no evidentiary hearing has been scheduled, provided that the communication:
 - (1) Is made at a public agenda meeting of the commission where such matter has been posted in advance as an item for discussion or decision;
 - (2) Is made at a forum where representatives of the public utility affected thereby, the office of public counsel, and any other party to the case are present; or
 - (3) If made outside such agenda meeting or forum, is subsequently disclosed to the public utility, the office of the public counsel, and any other party to the case in accordance with the following procedure:
 - (a) If the communication is written, the person or party making the communication shall no later than the next business day following the communication file a copy of the written communication in the official case file of the pending filing or case and serve it upon all parties of record;

(b) If the communication is oral, the party making the oral communication shall no later than the next business day following the communication file a memorandum in the official case file of the pending case disclosing the communication and serve such memorandum on all parties of record. The memorandum must contain a summary of the substance of the communication and not merely a listing of the subjects covered.

4. Nothing in this section or any other provision of law shall be construed as imposing any limitation on the free exchange of ideas, views, and information between any person and the commission or any commissioner, provided that such communications relate to matters of general regulatory policy and do not address the merits of the specific facts, evidence, claims, or positions presented or taken in a pending case unless such communications comply with the provisions of subsection 3 of this section.

5. The commission and any commissioner may also advise any member of the general assembly or other governmental official of the issues or factual allegations that are the subject of a pending case, provided that the commission or commissioner does not express an opinion as to the merits of such issues or allegations, and may discuss in a public agenda meeting with parties to a case in which an evidentiary hearing has been scheduled, any procedural matter in such case or any matter relating to a unanimous stipulation or agreement resolving all of the issues in such case.

6. The commission may enter into and establish fair and equitable cooperative agreements or contracts with or act as an agent or licensee for the United States of America, or any official, agency or instrumentality thereof, or any public utility or similar commission of other states, that are proper, expedient, fair and equitable and in the interest of the State of Missouri and the citizens thereof, for the purpose of carrying out its duties pursuant to [section 386.250](#) as limited and supplemented by [section 386.030](#) and to that end the commission may receive and disburse any contributions, grants or other financial assistance as a result of or pursuant to such agreements or contracts. Any contributions, grants or other financial assistance so received shall be deposited in the public service commission utility fund or the state highway commission fund depending upon the purposes for which they are received.

7. The commission may make joint investigations, hold joint hearings within or without the state, and issue joint or concurrent orders in conjunction or concurrence with any railroad, public utility or similar commission, of other states or the United States of America, or any official, agency or any instrumentality thereof, except that in the holding of such investigations or hearings, or in the making of such orders, the commission shall function under agreements or contracts between states or under the concurrent power of states to regulate interstate commerce, or as an agent of the United States of America, or any official, agency or instrumentality thereof, or otherwise.

8. The commission may appear, participate, and intervene in any federal, state, or other administrative, regulatory, or judicial proceeding. This subsection applies to all proceedings now pending or commenced after August 28, 2013.

Credits

(R.S.1939, § 5701. Amended by L.1971, H.B. No. 381, p. 414, § 1; L.1996, S.B. No. 780, § A; L.2003, H.B. No. 208, § A; L.2013, H.B. No. 432, § A, eff. Aug. 28, 2013.)

Notes of Decisions (10)

V. A. M. S. 386.210, MO ST 386.210

Statutes are current through the end of the 2018 Second Regular Session and First Extraordinary Session of the 99th General Assembly. Constitution is current through the November 6, 2018 General Election.

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