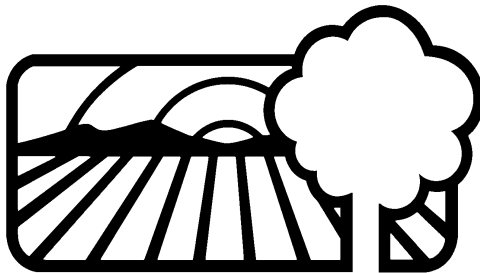


City of Modesto  
**PLANNING  
COMMISSION**

Rules and Regulations



June 2010

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## **ARTICLE I. ORGANIZATION**

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### Section 1.1 Establishment

The Planning Commission of the City of Modesto, hereafter called "The Commission", is established pursuant to the provisions of Chapter 1 of Title X of the Modesto Municipal Code.

## **ARTICLE II. POWERS AND DUTIES**

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### Section 2.1 Enumerated.

The Commission shall have the following powers and duties:

- (a) Perform all of the functions assigned to a City Planning Commission by the "Conservation and Planning Act" and other statutes of the State of California relating to planning and zoning, insofar as they are not in consistent with the provisions of the Charter of the City of Modesto.
- (b) Prepare and recommend to the City Council the adoption, amendment, or repeal of a General Plan, or any part thereof for the physical development of the City.
- (c) Exercise such functions with respect to land subdivisions, planning and zoning as may be prescribed by ordinance or resolution.
- (d) Advise and recommend to the proper officials of the City the approval, disapproval or modification of all land subdivision in accordance with the Subdivision Map Act of the State of California, or as may be provided by the Municipal Code of the City of Modesto.
- (e) Hold hearings on planning and zoning matters as prescribed by the Modesto Municipal Code, or State law; except that the provisions of Chapter 4 of the State Planning Law, Government Code Section 65800, and following, are not adopted unless specifically stated.
- (f) Review and recommend to the Council a capital improvements program budget.
- (g) Advise and recommend to the proper officials of the City regarding the acquisition, use, or disposition of all City-owned property.
- (h) Advise and recommend to the Council on matters required by law or referred by the City Council.

## **ARTICLE III. MEETINGS**

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### Section 3.1 Regular Meetings.

Prior to the first meeting of the coming year, a calendar of meetings shall be approved by the Planning Commission. The calendar adopted by the Planning Commission shall constitute the Schedule of Meetings. In preparing the calendar of meetings, the following shall serve as guidelines:

- (a) Regular meetings of the Commission shall be open to the public and shall be held at 6:00 p.m. on the first and third Monday of each calendar month.
- (b) If a regular meeting date falls on a legal holiday the meeting shall be held on the previous or following Monday.

- (c) If all members are absent from any regular or adjourned meeting, the Secretary may declare the meeting adjourned to a stated time and place. If the Secretary does so, the Secretary shall cause written notice of the adjournment to be given in the same manner provided for special meetings. Whenever a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting shall be held, it shall be held at the hour specified for the regular meeting which was adjourned.
- (d) In preparing the calendar, a two-to-three-week interval between meetings shall be maintained, where possible.

#### Section 3.2 Special Meetings.

Special Meetings of the Commission shall be open to the public and shall be held at such time as the Commission may determine, or they may be called by the Chairperson any time where an emergency situation warrants such a meeting.

#### Section 3.3 Noticing of Meetings.

Noticing of all meetings shall be in conformance with State Planning Law and the Modesto Municipal Code.

#### Section 3.4 Place of Meetings.

All meetings shall be held in the official Council Chamber of the City of Modesto or in such other location of the City as may be designated by the Planning Commission or the Secretary thereto.

#### Section 3.5 Quorum.

A majority of the members of the Commission shall constitute a quorum for the transaction of business.

#### Section 3.6 Meetings to be Public.

All meetings of the Commission shall be open to the public.

#### Section 3.7 Seating and Roll Call Vote.

The Commission shall be seated in alphabetical order. A roll call vote shall be taken upon the passage of all resolutions and be entered upon the journal of the proceedings of the Commission. Upon the request of any member, a roll call vote shall be taken and recorded on any vote. Whenever a roll call vote of the Commission is in order, the names of the members shall be called in the order seated, provided that the name of the presiding officer shall be called last. All members shall be required to vote. The affirmative or negative vote of a majority of the entire membership of the Commission shall be necessary for it to take action.

#### Section 3.8 Attendance.

Regular attendance at all meetings of the Commission is required of all members to enable the Commission to discharge the duties imposed upon it by law. If a member is absent from three (3) regular meetings of the Commission consecutively, without securing the permission of the Commission expressed in its official minutes, the member shall be deemed to have resigned from the Commission, and the member's office shall become vacant.

Section 3.9 Agenda and Reports.

In order to facilitate the orderly conduct of the business of the Commission, the Secretary shall arrange an agenda of the matters to be considered by the Commission at its next meeting together with a report outlining all known facts in each case to be considered by the Commission, with such analysis as is necessary, including recommended action when appropriate. The agenda and all reports shall be delivered or mailed to each member of the Commission, the City Manager, and the City Attorney prior to the Commission meeting at which they are to be considered, as far as possible in advance of the meeting as time for preparation will permit. Matters not included on the agenda will not be acted upon by the Commission unless (a) a majority of the Commission determine that an emergency situation exists, or (b) the Commission, by a two-thirds vote, or if less than two-thirds of the members are present by a unanimous vote, determines that the need to take action arise subsequent to the agenda for the meeting being posted, or (c) the item was on a properly posted agenda for a prior meeting of the Commission occurring not more than five (5) days prior to the meeting at which the action is taken.

Section 3.10 Field Trips.

In cases where a view of the premises will assist the Commission in making a decision, a field trip may be arranged prior to the meeting.

Section 3.11 Reading of the Minutes.

Unless the reading of the minutes of a previous Commission meeting is requested by a member of the Commission, such minutes may be approved without reading if the Secretary has previously furnished each member of the Commission with a copy thereof.

Section 3.12 Order of Business (Agendas).

Order of business at any regular meeting shall be as follows:

- a. Roll Call
- b. Approval of Minutes
- c. Consent and Joint Public Hearing Items
- d. Public Hearings
- e. Other Business
- f. Oral Communications
- g. Matters too Late for the Agenda
- h. Adjournment

**ARTICLE IV. PUBLIC HEARINGS**

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Section 4.1 Public Hearing Procedures.

The following rules shall govern the conduct of public hearings:

- (a) All hearings will be recorded by mechanical means. If a reporter is desired, the fee or fees of such reporter shall be paid by the party requesting the services.
- (b) The real parties in interest, including the applicant or any party having a substantial interest in the hearing, may be represented by counsel or a spokesperson.
- (c) The Chairperson opens the public hearing, and calls for a presentation by staff of the Community & Economic Development Department.

- (d) At the opening of the hearing, staff describes the item under consideration and presents staff report and recommendation. As a part of this presentation, suitable zoning maps, land-use maps and development plans of the area concerned may be identified and placed in view of the Commission and all persons attending the hearing.
- (e) At the conclusion of the presentation by staff, applicant (or proponents) is given first opportunity to speak and/or make a presentation, including calling witnesses and presenting any materials, exhibits, documents or other physical evidence.
- (f) At the conclusion of the presentation by the applicant or proponents, any persons who oppose the application may make a presentation, including calling witnesses and presenting any materials, exhibits, documents or other physical evidence.
- (g) All exhibits, documents or other physical evidence used by applicant or other interested parties during the hearings, will be introduced into evidence and will become part of the record and retained by the Secretary until the decision becomes final.
- (h) Members of the public wishing to speak on an item shall not be required to be sworn. Each speaker will be required to approach the microphone and give their full name and address for the record before testifying.
- (i) The Planning Commission may question the speaker. However, the Chairperson may require that such questions be addressed through the Chair for resubmission to the speaker.
- (j) The reading of details of letters and petitions by the persons submitting them may be permitted provided the material is not overly lengthy. Speakers will be asked to summarize written material. Such documents may be filed with the Secretary and the Secretary shall mark them as having been received for the limited purpose of showing the names of the persons protesting or supporting the application.
- (k) While it is desirable in a democratic process to permit every person an unlimited right to speak, such a right unduly prolongs a public hearing and clouds the basic issue if the evidence presented is merely cumulative and repetitious. Therefore, whenever necessary, the Chairperson may state that cumulative and repetitious evidence is to be avoided. Similarly, testimony and evidence which is incompetent, irrelevant or immaterial may be foreclosed by the Chairperson. If, because of the informality of the hearing, such improper evidence is received, it shall not be considered by the Commission in reaching its decision.
- (l) The Commission may establish special rules for individual items of business, establishing time limits for presentations and requiring presentations to be made through spokespersons, if possible.
- (m) After those in favor or opposed to an application have been heard, the Chairperson will ask for the recommendation of staff and the reasons for such recommendation. After such recommendation, both the applicant and opponent, if any, shall be given a limited amount of time to summarize their position or respond to the recommendation, after which the Chairperson shall close the public portion of the hearing.
- (n) The Commission should discuss the issues involved and make its decision only after hearing the evidence presented at the public hearing. Discussion of the matter by members of the Commission concurrently with or immediately following the staff's factual report and before the public has an opportunity to present its point of view may influence the Commission action. Therefore, except for questions by the Commission to obtain or clarify the facts, discussion of the matter by Commission members should be delayed until after the public hearing is closed and the matter is presented to the Commission for discussion and decision.

- (o) The Commission may conduct a field trip to view the property involved in the public hearing. All field trips shall be taken as part of a regular, adjourned regular or special meeting of the Commission and all interested persons will be afforded the opportunity to be present to hear any reports or comments. A complete record of such field trip will be entered into the minutes so the record will indicate that the field trip was taken into consideration as evidence. If a Commissioner has personal knowledge of the property area, the Commissioner should make a statement to that effect at the time of the hearing so the record will reflect everything being taken into consideration in making the final decision.
- (p) Commissioners are responsible for ensuring that the public hearing is conducted in a fair and impartial manner. If a Commissioner receives personal contact or telephone calls outside of the public hearing which concerns a matter pending before or of interest to the Planning Commission, he or she shall disclose the substance and nature of the contact or call at the public hearing. If written materials are presented to the Commission by an applicant or member of the public, a copy must be made available for public review by filing the materials with the Secretary at least three (3) days in advance of the meeting at which the item or matter is scheduled to be considered or at the time the materials are provided to any Commissioner, whichever is earliest.
- (q) Summary of Procedure for Conduct of Public Hearings by the Modesto City Planning Commission:
  - 1) Opening of public hearing.
  - 2) Staff Report and (optional) recommendation.
  - 3) Applicant's presentation.
  - 4) Opposition presentation.
  - 5) Staff recommendation.
  - 6) Summation by applicant and opposition.
  - 7) Close of public portion of hearing.
  - 8) Discussion and decision by Commission.

## **ARTICLE V - PLANNING COMMISSION ORGANIZATION**

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### Section 5.1 Membership.

The Planning Commission shall consist of seven members.

### Section 5.2 Term.

The term of the Planning Commissioners shall be set by the City Council by resolution.

### Section 5.3 Appointment Process.

The City Council shall appoint all members of the Planning Commission pursuant to applicable provisions of the Municipal Code.

## **ARTICLE VI - ELECTION OF OFFICERS/TERMS OF OFFICE**

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### Section 6.1 Election of Officers.

As soon as practical following the first day of January of each year, the Commission shall elect a Chairperson and Vice Chairperson.

### Section 6.2 Terms of Office.

The Chairperson and Vice-Chairperson shall hold offices for one (1) year.

## **ARTICLE VII. - OFFICERS**

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### Section 7.1 Enumerated.

The officers of the Commission shall be:

A Chairperson, whose duties shall be to preside at all meetings and call special meetings; and

A Vice Chairperson, who shall, in the absence of the Chairperson, perform the duties of the Chairperson.

### Section 7.2 Election of Officers.

As soon as practical following the first day of January of each year, the Commission shall elect a Chairperson and Vice Chairperson.

## **ARTICLE VIII. - PROCEDURES, POWERS, DUTIES, AND STAFF**

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### Section 8.1 Designated.

The provisions of the Municipal Code of the City of Modesto pertaining to procedures, powers, duties, and staff shall prevail.

### Section 8.2 Secretary of the Commission.

The Director of the Community & Economic Development Department or his/her designee shall serve as Secretary to the Commission. The Secretary shall keep a written record of all business transacted by the Commission, notify Commission members of meetings, and keep the official records of the Commission. Upon the direction of the Commission, the Secretary shall perform such other secretarial duties as the Commission may require.

### Section 8.3 Recording Secretary.

The recording secretary shall assist the Secretary of the Commission in fulfilling the responsibilities of administering to the needs of the Commission, including attending meetings to take audio recordings of the meetings, preparing minutes of all meetings, maintaining personnel records of the Commissioners and coordinating meeting schedules.

## **ARTICLE IX. - PARLIAMENTARY PROCEDURE**

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### Section 9.1 Rules of Order.

Except as otherwise provided in these rules and regulations, all meetings of the Commission shall be conducted in accordance with the following rules and procedures.

### Section 9.2 Rules of Debate.

The Chairperson, or such other member of the Planning Commission as may be presiding, may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed upon all members. The Chairperson shall not be deprived of any of the rights and privileges of a Commission member by acting as the Presiding Officer.

- (a) Getting the floor. Every member desiring to speak shall address the chair, and, upon recognition by the Presiding Officer, shall address only the question under debate, avoiding all personalities and indecorous language.

- (b) Interruptions. A member once recognized, shall not be interrupted when speaking other than by the Presiding Officer to call the member to order, or as herein otherwise provided. If a member, while speaking, be called to order, the member shall cease speaking until the question of order be determined, and, if in order, the member shall be permitted to proceed.
- (c) Privilege of closing debate. The Commission member moving the adoption of a resolution or motion shall have the privilege of closing the debate.
- (d) Remarks of Commission member. A Commission member may request through the Presiding Officer, the privilege of having an abstract of the member's statement on any subject under consideration by the Commission entered in the minutes. If the Commission consents thereto, such statement shall be entered in the minutes.
- (e) Synopsis of debate. The Secretary may be directed by the Presiding Officer, with the consent of the Commission, to enter in the minutes a synopsis of the discussion on any question coming regularly before the Commission.

### Section 9.3 Rules for Processing of Motions.

- (a) Making and withdrawing motions. When a motion is made, it shall be stated clearly and concisely by its mover. After a motion is made, it may be stated by the Presiding Officer before debate. A motion may be withdrawn by the mover without the consent of the remaining Commission members.
- (b) Divisible propositions. If the question contains two (2) or more divisible propositions, the Presiding Officer may, and upon request of a Commission member shall, divide the same.
- (c) Precedence of motions. When a motion is before the Commission, no motion shall be entertained except (precedence in order indicating):
  - 1) To adjourn.
  - 2) To fix hour of adjournment.
  - 3) To lay on the table.
  - 4) For the previous question.
  - 5) To postpone to a certain day.
  - 6) To refer.
  - 7) To amend.
  - 8) To postpone indefinitely.
- (d) Motion to adjourn. A motion to adjourn shall be in order any time except as follows:
  - 1) When repeated without intervening business or discussion.
  - 2) When made as an interruption of a member while speaking.
  - 3) When the previous question has been ordered.
  - 4) While a vote is being taken.
 A motion to adjourn to "another time" is debatable only as to the time to which the meeting is adjourned.
- (e) Motion to table. A motion to table or lay on the table is not debatable and shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the matter may be "taken from the table" only by a successful motion to add it to the agenda at a subsequent meeting, to be discussed at the following regular meeting.

- (f) Motion for previous question. A motion for previous question shall close debate on the main motion and shall be undebatable. The statement by a Commission member "I call for the question" does not accomplish the same purpose. If a motion fails, debate is reopened, if motion passes, then vote shall be taken on the main motion.
- (g) Motion to amend. A motion to amend shall be in order and is debatable only as to the proposed amendment. A motion to amend an amendment shall not be in order. Amendments are to be voted first, then the main motion as amended.
- (h) Motion to postpone. A motion to postpone indefinitely shall be fully debatable and if the same is adopted the principal motion shall be declared lost. A motion to postpone to a definite time shall be amendable and debatable as to propriety of postponement and time set.
- (i) Motion to refer. A motion to refer to staff or to a Commission committee shall not be debatable except for the propriety of referring.
- (j) Motion to reconsider. A motion to reconsider any action taken by the Commission may be made only on the day such action was taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by one of the prevailing side, but may be seconded by any member, and may be made at any time and shall be debatable. Nothing herein shall be construed to prevent a Commission member of the prevailing side from remaking the same motion at a subsequent meeting of the Commission. In such an event, the person desiring to remake the motion for reconsideration shall submit a written request for reconsideration to the Commission Secretary, who shall place the matter on the agenda for the next regular meeting of the Commission.

Section 9.4 Parliamentarian.

The Chairperson, acting with the advice of the City Attorney, shall decide all questions of interpretation of these rules and any other questions of a parliamentary nature which may arise at a Planning Commission meeting.

**ARTICLE X. - METHOD OF ACTION**

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Section 10.1 Decisions.

All decisions of the Commission required by the provisions of the Zoning and Subdivision Regulations shall be by resolution. All other determinations of the Commission may be by motion, except when otherwise required by law.

**ARTICLE XI. - COMMITTEES**

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Section 11.1 Special Committees.

There shall be such special committees as the Commission may establish from time to time.