



AGENDA - Planning Commission

DATE: November 8, 2023 7:00 PM City Council Chambers

- I. Call to Order
- II. Roll Call
- III. Approval of Meeting Minutes
 - I. Approval of October 24, 2023 Minutes
- IV. Public Comment
- V. Unfinished Business
 - I. Draft Short-Term Rental Ordinance
 - II. Zoning Ordinance Chapter 6 Draft
 - III. Zoning Ordinance Rewrite
- VI. New Business
 - I. Conflict of Interest Review
 - II. Approve 2024 Meeting Dates
- VII. Public Comment
- VIII. Adjournment

Public Comment: Public Comments are limited to three minutes.

Live Stream: The meeting will be livestreamed to the Official City of Grosse Pointe Park YouTube Channel.

Planning Commission MEETING - October 24, 2023
7:00 PM

CALL TO ORDER

The meeting was called to order at 7:00 p.m. by Chair Coletta.

ROLL CALL

PRESENT MEMBERS: Commissioners Coletta, Vethacke, Taylor, Saros, Stachecki, and Hodges.

Motion by Stachecki, seconded by Taylor to excuse Commissioner Evans.

EXCUSED: Commissioner Evans

ALSO PRESENT: Warren Rothe, Assistant City Manager, Lydia Williams, Building Department Administrative Assistant, Michael Boettcher, McKenna, John Jackson, McKenna.

APPROVAL OF MEETING MINUTES

Motion by Commissioner Taylor, seconded by Saros to approve the minutes from the October 12, 2023 meeting.

The motion carried on a unanimous voice vote.

APPROVAL OF MEETING MINUTES:
APPROVAL OF OCTOBER 12, 2023 MINUTES

PUBLIC COMMENT

Chair Coletta opened the first Public Comment period.

Twelve public comments were given.

UNFINISHED BUSINESS

UNFINISHED BUSINESS:
ZONING ORDINANCE COMPREHENSIVE REWRITE

The following chapters of the draft zoning ordinance were presented by Michael Boettcher of McKenna:

- Use Standards
- Schedule of Regulations
- Signage
- Reuse and Nonconformities
- Planned Unit Development
- Planning Commission
- Zoning Board of Appeals

During the Commission's review of the chapters, they expressed an interest in: generating a timeline of the Zoning Ordinance drafting and adoption processes, the need to review and return to their previous comments on the chapters presented so far. Commissioners Saros, Stachhecki, and Taylor offered to form a sub-committee to compile previous feedback, and pursue additional community engagement.

After the presentation of the draft chapters finished, John Jackson (McKenna) provided an overview of the proposed transition district, its objective, and the land uses allowed therein. Commissioners expressed sympathy with the feedback on the transition district, with much emphasis on parking lots as a permitted use by right. Further discussion occurred on modifications to the transition district. McKenna stated they would work on a memo summarizing previous Commission conversations and further modifications to the transition district concept. This memo will be used by the sub-committee to help initiate their work.

Open House events were scheduled for Saturday December 2nd and Monday December 4th, 2023.

NEW BUSINESS

There were no items of new business.

PUBLIC COMMENT

Chair Coletta opened the second public comments portion of the meeting.

Seven comments were given.

ADJOURNMENT

Motion by Stachecki, seconded by Taylor to adjourn the meeting at 10:00 PM.

AYES: Coletta, Vethacke, Stachecki, Taylor, Saros, and Hodges

NAYS: None



PLANNING COMMISSION MEETING

DATE: November 8, 2023

SUBJECT: Draft Short-Term Rental Ordinance

SUMMARY: Draft short-term rental regulations have been prepared for the Planning Commission's review. The regulations have been placed in the form of a stand-alone police power ordinance. However, the regulations themselves could be contained within the City's Zoning Ordinance. A presentation summarizing the ordinance is also attached and will be given in advance of the Commission's deliberation.

FINANCIAL IMPACT:

RECOMMENDATION: Review the proposed regulations and provide guidance.

PREPARED BY: Warren Rothe, Assistant City Manager

Sec 1 – Purpose

The purpose of this Article is to secure the public health, safety and general welfare of City residents and property owners as well as visitors to the City, by regulating short-term rental properties to prevent nuisances and safety hazards that interfere with City residents' or property owners' rights to conduct normal, daily activities without unreasonable interference and to provide safe and healthy living arrangements for visitors who rent property on a short-term basis.

Sec 2 – Definitions

As used in this Article, the following words and phrases shall have the meanings herein ascribed to them:

- a. *Dwelling* means any house, room, or apartment which is wholly or partly used or intended to be used for living, sleeping, cooking, and eating.
- b. *License* means a short-term rental license issued by the City to the owner of a premises authorized to be used as a short-term rental. No licensee shall acquire by virtue of having been granted a license, a right of automatic renewal, nor shall any licensee have or acquire a property or liberty interest in or expectation of an initial or renewed license. All licenses terminate upon transfer of ownership, and may not be assigned, transferred, or hypothecated, in whole or in part.
- c. *Licensee* means the owner(s) holding a license.
- d. *Maximum Occupancy* means the maximum number of allowable occupants for the premises.
- e. *Nuisance* means an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects an individual, or the generation of an excessive or concentrated effects from movement of people or things including but not limited to: noise; dust; smoke; odor; glare; fumes; flashes; vibration; objectionable effluent; noise from a congregation of people, particularly at night; passing traffic; or invasion of street frontage by traffic generated from an adjacent premises which lacks sufficient parking and vehicle circulation facilities.
- f. *Occupant*. Means a non-owner living in, sleeping in, or otherwise having possession of a premises.
- g. *Owner* means a person holding legal or equitable title to the premises. An owner may designate an agent to perform duties or receive notice under this Chapter.
- h. *Person* means any individual, company, partnership, corporation, limited liability company, trust or other entity having the legal capacity to own or lease real property.
- i. *Premises* means real property, and all fixtures and improvements, including the dwelling, located on it.
- j. *Rent or Rental* means to permit, provide for, or offer possession or occupancy of a dwelling on a premises on which the owner does not reside for a period of time to a person who is not the owner, pursuant to a written or unwritten agreement.
- k. *Short-term rental* means the rental or subletting of any dwelling on a premises for a term of 28 days or less.
- l. *Short-term rental, investor-owned* means a premises licensed under this Article that is not the principal residence of the owner, meaning that it is a location where the owner

does not reside for at least half the year. If the property has not been issued a principal residence exemption by the City Assessor, there shall be a rebuttal presumption that it is investor-owned for the purposes of this Article.

- m. *Special Event Venue* means the place where a meeting or event of a specific type takes place and/or is held (i.e. – weddings, showers, and other parties/gatherings) that exceed the defined building/room capacity of the dwelling and/or structure.
- n. *Transfer of Ownership* has the meaning ascribed to it by MCL 211.27a or any subsequent sections or statutes of the same import.

Sec 3 – License Required

- a. *General Regulations*: It shall be unlawful for any person to offer any premises as a short-term rental or conduct or operate a short-term rental on any premises within the City without a short-term rental license issued by the City.
- b. *Specific Regulations*: Persons seeking to operate a short-term rental must be registered with and licensed by the City prior to the commencement of any short-term rental activity. All short-term rental operations shall comply at all times with the requirements of this Article.

Sec 4 – Exceptions

This Article shall not apply to the following:

- a. *Family Occupancy*. A member of the owner's family, as well as that family member's guests, may occupy a premises as long as a member of that family retains ownership of the premises. The family occupancy exemption also exempts family occupancy of guest houses or similarly separate dwellings lawfully located on the same premises, when occupied by family guests, exchange students, visitors, medical caregivers, and child caregivers, without compensation to the owner.
- b. *House sitting*. During the temporary absence of the owner and the owner's family, the owner may permit non-owner occupancy without remuneration to the owner.
- c. *Dwelling sales*. Occupancy following closing by a prior owner after the sale of a premises for the length of time agreed to by the parties to the dwelling sale agreement.
- d. *Estate representative*. Occupancy by a personal representative, trustee, or guardian (including family members) of the estate of the owner, with or without compensation. The estate shall notify the City of the owner's name, date of death or incapacity, and name of the person occupying the premises.

Sec 5 – Licensing Procedure and Criteria

- a. Application

Applicants for a short-term rental license shall file an application to conduct a short-term rental operation with the city on a form provided by the City for that purpose the application shall include:

1. The name, mailing address, and phone number of the owner(s) of the premises to be licensed.
2. The name, mailing address, and phone number of the applicant if different than the owner.

3. A notarized letter of authorization from the owner to the applicant if the applicant is not the owner of the premises sought to be licensed.
4. A description of the premises proposed to be used for short term rentals, including but not limited to:
 - a. Number of bedrooms
 - b. Number of bathrooms
 - c. Maximum Occupancy
 - d. Tax parcel ID number
5. A non-refundable application fee in an amount set from time to time by resolution of the City Council or its designee. If a license is granted, the application fee will be applied towards payment of the license fee.
6. Written confirmation that the premises owner does not have an ownership interest in more than one premises for which a short-term rental license has been issued or is being sought in the City of Grosse Pointe Park.
7. A statement whether the applicant has ever been cited for a violation of this Ordinance or had a short-term rental license revoked.

All applicants selected to receive a license shall also file with the City prior to the issuance of the license, the following:

1. A licensing fee in an amount set from time to time by the City Council or its designee.
2. A certificate of general liability insurance coverage issued by an insurance company licensed to do business in the State of Michigan covering the premises and insuring the licensee against risks arising from commercial rental activities on the premises.

b. Inspections

- a. Upon the selection of a completed license application from the applicant pool, the City will schedule an inspection of the premises with the City Building Inspector. The Building Inspector will visit the premises and assess its fitness and safety for short-term rental operations using the standards contained in this Article and those required to obtain a Certificate of Occupancy pursuant to the City Code. The owner(s) of the premises described in the application shall be the only permitted short-term rental licensee but may designate to the City a local agent for purposes of receiving notices under this Article and shall do so if required by Section 6(b) of this Article.
- b. Each licensed premises shall be inspected annually for the initial three-year license period described in Section 8 of this Article. An inspection fee shall be charged in an amount determined by the City Council from time to time. At the conclusion of the initial license period, inspections for licensed premises shall follow the City's current requirements for registered rental properties.

c. Limits on Issuance of Licenses

The City may issue up to (30) short-term rental licenses, under the following conditions:

1. No more than ten (10) licenses may be issued for investor-owned short-term rentals.
2. There must be a 120 feet separation distance between the property lines of each investor-owned short-term rental. This distance shall be measured along the street.

3. Regardless of the number of applicants, no person may hold more than one license at the same time.
4. Licensees are valid for a period of three (3) years commencing on [REDACTED] following the adoption of this Article, and expiring at midnight on [REDACTED] of the third year following the adoption of this Article. Licenses may be issued at any time, but licenses issued after the first day of the first year of the three-year licensing period will be valid only until the expiration of that licensing period, such that all short-term rental licenses issued by the City will expire at the same time.
5. Licenses which terminate due to revocation by the City, death of the owner, a transfer of ownership of the premises, or any other reason will become available for re-issuance, but will expire at the end of the then three-year licensing period.
6. Licensees will be initially issued on the basis of a blind, random drawing conducted by the City. All complete applications will be included in the pool from which the license selections are made. The City shall set by resolution the due date for License applications to be included in the pool from which the license selections are made. The City shall also set by resolution the date on which the license selection drawing will be conducted. All premises for which a license is drawn from the license application pool shall be inspected before a license is issued pursuant to Section 5-b of this Article. If the City receives more than 30 license applications by the due date, then licenses which become available due to termination or resignation of a license or failure of the premises to pass inspection may be granted on the basis of a blind, random drawing to qualified applicants who applied by the due date and who were not selected in the initial drawing. The City shall consider any license application submitted after the due date on a first-come first-served basis.
7. Licenses are non-renewable, non-transferrable, non-assignable and remain the sole property of the City. Death of licensee who is a natural person, or a transfer of interest of more than fifth percent (50%) or a lesser but controlling interest in a partnership, corporation, limited liability company, trust, or other legal entity that owns the licensed premises, terminates a license immediately.
8. Notwithstanding any other provision of this Article, all licenses expire at the end of the three-year licensing period. If the City chooses to continue issuing short-term rental licenses pursuant to this Article, any person desiring to continue operating a short-term rental must renew their license. Any person desiring to commence operating a short-term rental must apply for a license should the City choose to continue its short-term rental program in order to have the opportunity to obtain a short-term rental license.

Sec 6 – Short-Term Rental Regulations

Premises licensed for short-term rentals under this Article shall comply at all times with all of the following requirements:

- a) No licensee shall advertise a short-term rental unit, unless the advertisement includes the licensee's license number and the maximum occupancy permitted in the unit.
- b) Licensees must be available to receive notices and respond to complaints from neighbors or the City, 24 hours per day, 7 days per week. Licensees who do not reside permanently in Wayne County or who do not maintain a permanent business location in Wayne County shall designate in writing to the City, as part of its application, the name, physical address, phone number(s), fax number (if available) and email address of a

local agent. Notwithstanding the local agent's actual authority, the local agent shall be deemed to be the licensee's authorized agent for purposes of serving notice under this Article, including service of a civil infraction citation.

- c) The address of the premises must be prominently displayed inside the main area of the dwelling so that occupants will have it available in case of an emergency,
- d) The licensee's name, address, phone number(s) and email address must be displayed prominently in the main part of the dwelling, along with the name, address, phone number(s), fax number and email address of a designated local agent, if any, and supplied in writing to all persons who rent the premises.
- e) Fire extinguishers, smoke detectors and carbon monoxide detectors adequate for the dwelling, as determined by the City Building Inspector as part of the inspection of the premises, shall be provided, properly mounted and kept fully charged and in good working order at all times. Notwithstanding any inspection by the City building inspector, the fire inspector may inspect any building pursuant to the City Code.
- f) Dwellings may not be sublet by any tenant of the licensee.
- g) Licensee shall provide secure trash receptacles and must make those receptacles accessible by weekly trash removal services for occupants' use. Receptacles must be designed to prevent intrusion by animals and to ensure proper trash removal from the premises. Commercial dumpsters are not allowed on any premises used for short-term rentals.
- h) Licensee must ensure that the premises complies with all applicable parking regulations under the City Code.
- i) All short-term rentals shall be for the purposes of renting as a temporary dwelling only and may not include any commercial activities such as yard sales, festivals, retreats, class reunions, home occupations or similar uses. Short-term rentals shall not be marketed or used as a special event venue.
- j) The number of occupants in a dwelling unit during a short-term rental shall not exceed two (2) occupants per bedroom plus two (2) additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Residential Code.

Sec 7 – Licensee Responsibility

The licensee and/or the licensee's local agent shall have the duty to remedy any violations of this Article, or any violation of State law or City Ordinance, by the occupants of a short-term rental and/or guests of such occupants. For any violation of the foregoing provisions of the City Code, the City may (in addition to other remedies) notify the licensee and/or local agent of such violation by telephone or return receipt email at the phone number and email address posted on the interior notice or supplied in the licensee's application. The licensee and/or local agent shall be considered to have received notice of the violation upon receiving the telephone call or when a return receipt email message is received by the City, whichever is soonest. Upon receiving notice of the violation, the licensee and/or local agent shall ensure that the violation is remedied within two (2) hours of receipt of such notice. Failure to remedy the violation within two (2) hours after receiving notice of the violation, without good cause, shall constitute a material violation of this Article and may subject the licensee to a municipal civil infraction citation and court enforcement proceedings and the penalties imposed by law. Nothing in this Section limits the City or its authorized designee's right or ability to enforce violations of the City Code against occupants.

Sec 8 – Violations and Penalties.

- a. Violation. A violation of this Article is hereby declared to be a public nuisance and a nuisance per se and is declared to be offensive to the public health, safety, and welfare.
- b. Penalties. Any person who violates any provision of this Article shall be responsible for a municipal civil infraction and shall be subject to the penalties or sanctions stated in this subsection, plus the costs of attorney fees of the City in the enforcement. In addition, this Article shall be specifically enforceable by order of the Court to prohibit or enjoin future activities on or about the premises in violation of this Article. Each day this Article is violated shall be considered as a separate violation:
 - a. First Violation: fine of no less than \$250;
 - b. Second Violation: fine of no less than \$500;
 - c. Third Violation: permanent revocation of license. A person whose license has been revoked is ineligible to apply for or receive a license in the future. Appeal from revocation of a short-term license is allowed pursuant to the terms of this section.
- c. Revocation Appeal Procedure. Upon a finding by the City Code Enforcement Officer or his or her Designee of a third violation, the City Code Enforcement Officer or his or her Designee shall prepare or cause to be prepared a written notice specifying the alleged violation and the factual basis for this belief and a statement that the City intends to revoke the license within 14 days.
 - a. The written notice shall inform the licensee of a right to an appeal hearing to show cause as to why the license should not be revoked by filing with the City Clerk a written notice of appeal within 14 days of service of the written notice by the City Code Enforcement Officer or his or her designee.
 - b. If an appeal hearing is requested within 14 days of service of the written notice, the City Clerk shall refer a copy of this notice and the request for appeal hearing to an appeals panel consisting of the City Manager or their designee, Director of Public Safety or their designee, and the Chair of the Planning Commission or their designee. Upon receipt of the written notice and request for appeal, the City Clerk shall confer with the appeals panel to schedule a hearing. The hearing shall be held as soon as practical, but not later than 10 business days after the filing of the notice of appeal with the City Clerk. The hearing provided for shall be conducted by the appeals panel.
 - c. Written notice of the appeal hearing including the time, date, and place of the hearing shall be served on the licensee or the licensee's designated agent either personally or by certified mail, restricted delivery and return receipt requested.
 - d. At the hearing, the licensee shall be given an opportunity to present evidence and legal arguments. The licensee may also be represented by an attorney, and the appeals panel may request the assistance of the City Attorney. The appeals panel's decision shall be in writing and shall specify the factual evidence upon which it is based and shall be a final decision. A copy of the appeals panel's written decision shall be provided to the licensee.

Sec 9 – Enforcement

- a. The Code Enforcement Officer or his or her Designee, any police officer having jurisdiction in the City, and other person as may be appointed from time to time

by the City Council are hereby designated as the authorized local officials to issue municipal civil infraction citations for violation of this Article.

- b. In addition to enforcing this Article through the use of a municipal civil infraction proceeding, the City may initiate proceedings in the Municipal Court to abate or eliminate the nuisance per se or any other violation of this Article.
- c. The remedies provided in this Article are cumulative and the City's exercise of one remedy shall not bar the exercise of other remedies available to it.

Sec 10 – Review of short-term rental licensing program

The City Council or its designee shall review the short-term rental program described in this Article by the end of the initial three-year licensing period on the [REDACTED] of the third year following adoption of this Article. If the City Council does not renew the short-term rental licensing program by that date, the provisions of this Article shall expire such that no existing license shall be renewed, and no licenses shall be granted to applicants on the waiting list.

The background of the slide features a large, faded seal of the City of Cross Lake. The seal is circular with a dark blue outer ring containing the text "City of Cross Lake" in a serif font. Inside the ring is a stylized landscape with a sailboat on the water, a sun or moon, and a tree with leaves.

Short-Term Rental Draft Ordinance

Summary for the November 8, 2023, Planning Commission Meeting

Regulatory Approach

- Establishes a licensing system for short-term rentals.
- Licenses and ordinance are effective for a three-year trial period.
- Limit of 30 licenses, which will initially be issued by a blind drawing of submitted applications.
- An inspection is required to be issued a license. Annual inspections are required during the initial three-year term.

Section 1 & 2: Purpose and Definitions

- **Purpose:** *“regulating short-term rental properties to prevent nuisances and safety hazards that interfere with City residents’ or property owners’ rights to conduct normal, daily activities without unreasonable interference”* **EXCERPT**
- **Key Definitions**
 - *Short-term rental* – means the rental or subletting of any dwelling on a premises for a term of 28 days or less.
 - *Short-term rental, investor owned* – means a licensed property that is not a principal residence of the owner, meaning that it is a location where the owner does not reside for at least half the year.
 - *Dwelling* – any house, room, or apartment which is wholly, or partly used or intended to be used for living, sleeping, cooking, and eating.

Section 3 & 4: License Required, Exceptions

- All short-term rentals must have a valid license issued by the City. It is unlawful to operate a short-term rental without a license.
- The following exceptions are not considered a short-term rental:
 - *Family Occupancy*
 - *House Sitting* – without remuneration
 - *Dwelling Sales* – when a property is still occupied by the seller before the purchaser moves in.
 - *Estate Representative* – occupancy by a personal representative, trustee, or guardian of the estate of the owner.

Section 5: Licensing Procedure and Criteria

- *Subsection (A) Application* – lays out requirements for a complete license application.
- *Subsection (B) Inspections* – establishes the following requirements:
 - An initial inspection before a license is issued.
 - Subsequent annual inspections during the initial three-year licensing period.
 - In the event the ordinance is extended, the inspection frequency would convert to that of long-term rentals, currently every other year.
 - In addition to the standards of the STR ordinance, the property must comply with the City's requirements for all rental properties as part of the existing Certificate of Occupancy process.

Section 5: Licensing Procedure and Criteria

- *Subsection (C) License Limitations:*
 - Limits the total number of licenses to 30, City-wide.
 - Of the 30, only 10 may be issued to investor-owned properties. There is a 120-foot separation requirement between investor-owned properties.
 - Limits licenses to one per person.
 - Describes the initial licensing procedure. (Blind random drawing)
 - Licenses terminate upon:
 - Transfer of ownership
 - Death of owner
 - Revocation by City

Section 6: Short-Term Rental Regulations

- Requires that all advertisements must display the license number and maximum occupancy. Address and owner information must be displayed in the rental unit.
- Requires the owner or their local agent to be able to receive notices and complaints 24/7.
- Trash receptacles and required parking spaces must be provided.
- Prohibits use of short-term rentals for festivals, retreats, class reunions and similar gatherings.
- Max occupancy is two occupants per bedroom plus two occupants per finished story meeting applicable code requirements for egress.

Section 7: Licensee Responsibility

- Licensee and/or the local agent shall have the duty to remedy any violations of the ordinance, or any violation of State law or City Ordinance by the occupants.
- Failure to remedy the violation within two hours of notice, without good cause, shall be a violation of the ordinance.

Sections 8 & 9: Violations and Enforcement

- Violations are a municipal civil infraction.
- After three violations of the ordinance, the license is permanently revoked.
- There is an appeal procedure for revoked licenses. An appeal panel consisting of the City Manager, Public Safety Director, and Planning Commission Chair will hear from the application and make a written decision on whether the license should be reissued.

Section 10: Review of Program

- Requires the City Council or its designee to review the short-term rental program by the end of the initial three-year licensing period.
- A review of the ordinance can occur at any time, it does not have to be just before the expiration.
- In the event the ordinance is not renewed, it expires and all licenses and short-term rental activity cease.



PLANNING COMMISSION MEETING

DATE: November 8, 2023

SUBJECT: Zoning Ordinance Chapter 6 Draft

SUMMARY: McKenna will be in attendance to provide a summary of the last remaining chapter of the draft zoning ordinance (apart from the glossary) which regulates landscaping, screening, and fencing. Apart from the proposed regulations here, McKenna seeks to discuss regulations related to accessory stormwater control features such as permeable surfaces, rain gardens, and green roofs with the Commission for inclusion in a future draft.

FINANCIAL IMPACT:

RECOMMENDATION:

PREPARED BY: Warren Rothe, Assistant City Manager

Article 6. Landscaping, Screening and Fences

ZONING ORDINANCE · CITY OF GROSSE POINTE PARK, MI





Section 6.01 Intent Statement

Recognizing that the proper management and use of trees, plants and other types of vegetation improves the appearance, value, character, quality of life, and the natural environment in Grosse Pointe Park, this Article establishes standards for the development, installation, and maintenance of landscaping to accomplish the following:

- A) Preserve existing trees and vegetation.
- B) Conserve energy, provide adequate light and air, prevent the overcrowding of land, and reduce impervious surfaces.
- C) Encourage the use of native plant materials and a diversity of species in plantings.
- D) Provide visual buffers and enhance the beautification of Grosse Pointe Park.
- E) Safeguard and enhance property values and protect public and private investment.

Section 6.02 Scope of Landscaping Requirements

- A) On developed sites (excluding one-family residential dwelling units, when developed on a parcel-by-parcel basis), landscaping must be brought into compliance with the Zoning Ordinance. This applies to:
 - 1) New construction (or the modification of an existing building where the total building square footage is increased by 25% or greater).
 - 2) Projects where the total amount of impervious surface on the site has increased by 50% or greater.
 - 3) Project for which a special land use permit is required.
- B) No landscaped area may be abandoned, paved, or otherwise employed without submission and approval of a site plan.
- C) These requirements are minimum requirements; nothing precludes a developer from proposing a more extensive landscape plan.

Section 6.03 General Standards

- A) **Plans.** Landscape plans must be prepared, sealed, and signed by a licensed landscape architect, unless the application is for a re-occupancy only and no special planning processes (e.g., special land use, variance) are required. In addition to the standards set forth in this Article, landscape plans will be reviewed to ensure compliance with the following general standards for quality and design:
 - 1) The proper spacing, placement, and location of plant materials must ensure that the required horizontal and vertical obscuring effect of proposed land uses will be achieved. The proposed relationship between deciduous and evergreen plant materials must ensure that the obscuring effect will be maintained throughout the various seasonal periods. The size of plant material must be able to adequately screen use at the time of planting and over time as the plants mature.



- 2) The choice and selection of plant materials must ensure that root systems will not interfere with public utilities or rights-of-way and that fruit and other debris (other than leaves) will not constitute a nuisance within public rights-of-way, or to abutting property owners.
- B) General Requirements.** The entire landscaped area (including lawn areas and landscape islands) must be planted with grass, groundcover, shrubbery, or other suitable plant material (excluding areas used as paved patios, terraces, sidewalks, and similar site features).
- C) Landscaped Islands.** Landscaped islands may be located below grade if serving as a swale or other form of bio-retention. If used for bio-retention adjacent to a parking lot or right-of-way, salt and sediment-tolerant plants must be selected.
- D) Maintenance of Existing Landscaping.** All existing landscaping must be maintained in good condition to present a healthy, neat, and orderly appearance, free from refuse and debris. All unhealthy and dead materials must be replaced within 45 days of notice from the city (or within the next planting period, whichever comes next). Grass areas must be kept weed free and mowed on a regular basis and all edges trimmed and maintained. Landscape inspections may be conducted on a regular basis to ensure long-term compliance.
- E) Preservation of Existing Vegetation.** Existing healthy vegetation must be protected during construction with temporary fencing around the drip line. To promote the preservation of natural features, sites should be designed to preserve existing woodlands and wetlands to the greatest extent possible.
- F) Planting Setbacks.** The trunks of trees cannot be planted closer than 4-feet to a property line. Trees must be located in a manner that avoids future conflicts between roots and sidewalks, paved areas, or building foundations; this distance will vary based on the species of tree and the spread of the roots.
- G) Retention/Detention and Private Ponds.** Ponds are permitted for recreational, scenic, or stormwater management purposes and must meet all federal, state, county, and city requirements. The property owner must maintain the pond and the filter system, including, but not limited to the cleaning of the pond, the mowing of grass, and the elimination of any nuisances created by standing water or a water body. Ponds must incorporate water tolerant grasses and seed mixes at the bottom of the pond/basin and appropriate trees, shrubs, and grasses along the banks based on the environment to improve views, filter runoff, and enhance wildlife habitat.
- H) Plant Minimum Requirements.**
- 1) Trees planted in Grosse Pointe Park must conform to the list of recommended species of trees for community planting, as amended, published by the State of Michigan Department of Natural Resources Forest Resources Division.
 - 2) All landscape plans must include a minimum of 50% native plants.
 - 3) All plant material must conform to the description consistent with generally accepted and published nursery and landscape standards. Plant materials must be typical of their species or variety, have normal habitat of growth, well-branched and densely foliated when in leaf.
 - 4) Artificial plants are prohibited from satisfying landscape requirements.
- I) Mulch.** Planting beds must present a finished appearance, with shredded hardwood bark mulch or a similar natural material at a minimum depth of 3-inches. All mulched areas must be refreshed seasonally.



- J) Lawn Area and Ground Cover.** Where present, lawns must be planted with species of grass normally grown as permanent lawns in southeast Michigan. Grass may be sodded or seeded and mulched. Sod or seed must be clean, free of weeds and noxious pests or disease. The property owner is responsible for soil erosion protection prior to the installation and for maintaining the approved grade before and after lawn installation. Lawns may be substituted for alternative forms of groundcover, such as myrtle, wildflowers, garden beds, or clover in whole or in part; the combined ground cover(s) must achieve full lot coverage, and at no point shall landscaping consist of loose dirt or gravel. Where possible, Xeriscape design is highly encouraged.
- K) Irrigation.** Where irrigated, sprinklers may only operate between the hours of 6pm and 10am.
- L) Minimum Planting Size.** All plantings must meet the following minimum size at the time of planting:
- 1) **Deciduous Trees.** 2½-inches in caliper, measured at 18-inches above grade.
 - 2) **Ornamental Trees.** 2-inches in caliper, measured at 18-inches above grade.
 - 3) **Evergreen Trees.** 8-feet in height, measured from grade.
 - 4) **Shrubs.** 30-inches in height, measured from grade.
- M) Prohibited Species.** All invasive plant species, as designated by the State of Michigan as invasive, shall be prohibited in the City of Grosse Pointe. Based on their undesirability, the following species are also prohibited; the city may prohibit other species not listed in the following table:

Prohibited Tree Species			
Ash	Cottonwood	Mulberry	Tree of Heaven
Black Locust	Elm	Norway Maple	Willow
Box Elder	Ginkgo (Female)	Olive	Poplar
Buckthorn	Honey Locust (With Thorns)	Poplar	Buckeye
Catalpa	Horse Chestnut (Nut Bearing)	Silver Maple	

Ash	Cottonwood	Mulberry	Tree of Heaven
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Buckthorn	Honey Locust (With Thorns)	Poplar	Buckeye
Catalpa	Horse Chestnut (Nut Bearing)	Silver Maple	

If damaged, diseased, removed during construction, or otherwise destroyed, a prohibited plant cannot be re-planted or encouraged to continue.

- N) Installation.** All landscaping must be installed in a manner consistent with generally accepted and published nursery and landscape standards, the approved landscape plan, and the following:
- 1) All trees must be balled and burlapped at the time of planting.
 - 2) Plant material must be freshly dug, and nursery grown. Plant material must be of sound health, vigorous and uniform in appearance with a well-developed root system and free from disease, insects, pests, eggs, or larvae. Trees must have straight trunks with leaders intact, undamaged, and uncut.
 - 3) A minimum of 4-inches of topsoil must be provided for all lawn areas, groundcovers, berms, and planting beds.
 - 4) All tags must be left on planted materials and may only be removed after the site passes the landscape inspection.
- O) Payment In-Lieu of Tree Planting.** The Planning Commission may allow for a payment in-lieu of tree planting, in an amount to be established by resolution of the City Council, on a case-by-case basis, to be



used for tree planting elsewhere in the city. In doing so, rough proportionality between the number of trees that would be required to be planted and those that are being planted per the site plan is achieved.

Section 6.04 Commercial, Mixed-Use, and other Non-Residential Landscape Design Standards

All landscaping must comply with the following minimum standards:

- A) Site Trees.** One 2.5-inch caliber deciduous tree or one 10-foot evergreen tree per 1,000 square feet of non-paved surface must be provided, in addition to other trees required elsewhere.
- B) Frontage Landscaping.** When a site abuts a road right-of-way, frontage landscaping must be provided in the front yard area adjacent to the right-of-way or within the right-of-way, per the table below. For the purposes of computing length of road frontage, openings for driveways and sidewalks are counted towards the total linear frontage. Shrubs may be planted at uniform intervals, at random, or in groupings.

Type of Frontage Landscaping	Min. Required per Linear Foot of Road Frontage (or fraction thereof)
Deciduous Trees*	1 per 20 linear feet <i>*Evergreen trees may be considered by the Planning Commission when so located as to not obstruct sight lines).</i>
Ornamental (Flowering) Trees	1 per 50 linear feet
Shrubs	8 per 40 linear feet

- C) Parking Lot Landscaping.** To improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of parking lots, off-street parking lots with 20 or more parking spaces must dedicate at least 5% of the total parking lot area to interior landscape islands: each island must be a minimum size of 150 square feet, contain at least 1 deciduous tree, 2 decorative shrubs, and be covered with grasses or alternative groundcover (excluding mulch).
- D) Screening from Parking Lot.** Screening adjacent to a parking lot is not required if the parking surface area is completely screened from the right-of-way by an intervening building or structure. Where a parking lot is located adjacent to sidewalks, streets, and other rights-of-way, screening must be provided within 10-feet of the parking lot with the following (or a combination thereof):
 - 1) **Vegetative Buffer.** A minimum 5-foot-wide greenbelt with an evergreen or deciduous hedge, at least 3-feet in height. No plant material may be located within 2-feet from the front of a parking space curb (to account for vehicle overhang).
 - 2) **Screen Wall/Fence.** A decorative masonry wall or black aluminum fencing, at least 3-feet in height. Walls must contain a stone or masonry cap and fences must incorporate stone or masonry piers at regular intervals. Masonry walls may be constructed with openings which do not in any square section (height and width) exceed twenty percent (20%) of the surface. Where included, the openings must be so spaced as to maintain the obscuring character required and cannot be used to reduce the minimum height requirement.
- E) Screening from Residential Uses.** All non-residential uses that abut a residentially used property must provide screening by one or a combination of the following:



- 1) **Screen Wall.** A reinforced, decorative masonry wall, 6-feet in height above grade. Required walls shall be located on the lot line except where underground utilities interfere and except in instances where this Ordinance requires conformance with front yard setback lines in abutting residential districts. Required walls may, upon approval of the Planning Commission, be located on the opposite side of an alley right-of-way from a non-residential zone that abuts a residential zone when mutually agreeable to affected property owners. Masonry walls may be constructed with openings which do not in any square section (height and width) exceed twenty percent (20%) of the surface. Where included, the openings must be so spaced as to maintain the obscuring character required and cannot be used to reduce the minimum height requirement.
- 2) **Vegetated Buffer.** A minimum 10-foot-wide greenbelt with evergreen trees forming a continuous screen (trees planted 10-15 feet apart (on center) in 2 staggered rows).
- 3) **Berm.** A 6-foot in height earth berm, with a slope (measured on the cross-section) no greater than 1:3 and at least a 2-foot-wide landscaped planting area at its crest. Plant materials within the berm area shall be installed in accordance with the requirements for plant materials contained herein. Berms shall be constructed as landscaped earth mounds with a crest area at least 4 feet in width. The exterior face of the berm shall be constructed as an earthen slope. The interior face of the berm may be constructed as an earthen slope, or retained by means of a wall.

F) Landscaping Adjacent to Buildings. All building walls visible from a right-of-way or publicly accessible area must have a 3-foot-wide landscape area adjacent to them for at least 25% of their total width. This area may include inground landscaping, raised landscape beds, decorative landscape containers, or a combination thereof.

G) Dumpster/Refuse Containers. In all zoning districts except single-family residential districts, dumpsters must be screened by a decorative masonry or composite wall as approved by the Director of Public Service, at least 6-feet in height above grade, or 1-foot above the object which it is screening, whichever is greater, with posts or bumpers installed at the opening doorway to the screening walls. A gate constructed from metal, wood, or composite material is required; chain link fencing with obscuring fabric or slats is prohibited. The inside dimensions of the enclosure shall permit adequate access for refuse collection vehicles and the enclosure shall be situated on a reinforced concrete pad at least 6-inches thick, which pad shall extend at least 6-feet beyond the opening of the enclosure.

Refuse dumpsters and exterior service areas shall at all times be maintained in good repair and be structurally sound, free of debris and neat and clean in appearance. The name, address and telephone number of the owner and lessee of each dumpster shall be clearly marked on each dumpster.

The proposed structure, location and materials shall be acceptable to the Director of Public Services as a prerequisite to the issuance of any building permit, and the Director of Public Services shall not issue a certificate of occupancy unless the provisions of this Section have been fully met. Within one year of the effective date of this Ordinance, any outside storage of rubbish in dumpsters shall comply with this Section.

H) Outdoor Storage. Outdoor storage areas shall be screened from all adjacent rights-of-way with an obscuring wall no less than 4-feet 6-inches in height or the height of the materials being screened, whichever is greater. The Planning Commission may approve a wood fence as an alternative to a masonry wall in the event that masonry wall would negatively impact the community design context.

I) Mechanical and Utility Equipment Screening. Transformers, wireless communication facilities, climate control and mechanical equipment, and other above ground utility cabinets must be screened with evergreen



plantings or a decorative opaque fence at least 1-foot taller than the height of the cabinet / equipment. This requirement does not apply to equipment serving one- or two-family dwelling units.

Section 6.05 Residential Landscape Design Standards

- A) Single-Family Residential.** Within 1-year of the issuance of a temporary certificate of compliance, the following is required for new single-family dwelling units:
- 1) **Landscaping.** Front yards must be landscaped with lawns, groundcover plants, flower beds, deciduous shrubs, evergreen material, and ornamental trees. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.
 - 2) Where present, lawns must be sodded, seeded or hydro seeded, and installed in all areas of residential property not otherwise landscaped, and must be maintained and present complete coverage within 3-months of planting. The property owner is responsible for soil erosion protection prior to the installation and for maintaining the approved grade before and after lawn installation.
 - 3) **Trees.** Two trees (at least 2-inches caliper) must be planted per parcel; at least one tree must be planted in the front yard.
- B) Multiple-Family Residential.** In addition to the standards listed in subsection A, multiple-family residential uses must provide a minimum of 2 deciduous or evergreen trees per dwelling unit, unless otherwise determined by the Planning Commission. This requirement shall not apply to mixed-use residential projects, the landscaping standards for which shall be governed by Section 6.4 of this Ordinance.

Section 6.06 Fences

- A) General Standards.**
- 1) Fences shall not contain barbed wire or any other type of sharp-edged wire or have electric current or a charge of electricity.
 - 2) No chain link or similar type fencing shall contain slats, webbing, synthetic materials, or other fabric for the purpose of creating a privacy type fence.
 - 3) Fences, over two feet in height (other than spit rail and chain link) shall not be constructed within the clear corner vision triangle as defined in Section 5.8 of this Ordinance.
 - 4) For fences erected along a lot line, a joint permit application shall be submitted and consent to install the fence provided by all property owners. Except for a fence with a common end or corner post, no fence shall be attached to or touch a fence located on another property owner's lot or on the same lot.
 - 5) All fence support posts shall face the property of the person erecting the fence. In the case of abutting property owners who elect to share the expense and erect a fence together, both shall be co-owners of the same and it shall be the responsibility of the property owners to determine the location of the posts in compliance with this Section.

**B) Materials.**

- 1) Fences may be constructed of metal, wire, chain link, iron, vinyl (or similar), composite, naturally durable wood or treated wood.
- 2) Hedges, ornamental shrubs and trees, and bushes may be considered fences for the purpose of this Article when placed in a manner or position to serve as such. A living fence shall be a continuous natural barrier intended to separate two areas of a yard. A continuous hedge, tightly knit row of shrubs or ornamental trees, or lattice-woven fence composed of living woody plants are all considered a living fence.
- 3) A mixture of differing materials shall not be permitted along a continuous face of the fence.

C) Definitions. The following definitions shall apply when considering fences, specifically.

- 1) **Height.** Height shall be measured from the general level of the ground in the immediate vicinity. Where the level is different on either side of a fence, the average between the two shall be used.
- 2) **Frontage (Corner Parcels).** A corner parcel shall be considered fronting upon the street that corresponds with the permanent address. Where a parcel is un-addressed, the front yard line or similar data shown on the recorded plat shall determine which street the parcel fronts upon; and where such determination cannot be made from the recorded plat, the lot shall be considered as fronting upon whichever street has the greater portion of the parcel perimeter.
- 3) **Front/Rear Yard (Waterfront Parcels).** For the purposes of this section, the side of the parcel abutting the waterbody shall be considered the “front yard” and the side of the parcel abutting the street shall be considered the “rear yard” for all waterfront parcels, with “yard” meaning the space as defined in Section 16.2 of this Ordinance.

D) Location and Height.

- 1) No fence shall be constructed or maintained on any part of a front yard.
- 2) No fence shall be more than 4 inches off the ground at its lowest point between the supporting posts or slats.
- 3) Fences shall not be located less than two feet from any public sidewalk.
- 4) Fences shall not exceed 6 feet in height along any rear lot line, or when constructed in the rear yard interior, and shall not exceed 4 feet in height along any side lot line, or when construction in the side yard interior.
 - a) Fence height may be increased up to 6 feet along any side lot line, or when constructed in the side yard interior, if the side yard directly abuts a right-of-way or the resident proposing to build such fence has notified his immediately adjoining property owners of his intention to construct such fence and has obtained their written consent thereto within a period of (sixty) 60 days preceding the issuance of a permit for the construction of such fence.
 - b) Fences shall not exceed 4 feet in height along any rear lot line, or when constructed in the rear yard interior, for all waterfront parcels. Fences shall be set back no less than 3 feet from the established right-of-way or rear lot line, whichever is greater.



- c) For commercial uses, fence height may be increased up to 6 feet along any side lot line, or when constructed in the side yard interior, when, in the determination of the Planning Commission, the additional height is necessary to adequately screen and secure a permanent outdoor storage area.

- 5) Living fences may not exceed nine feet in height.

E) Construction and Maintenance.

- 1) Construction of fences shall comply with the state construction code as applicable.
- 2) Fences shall be maintained in a neat and safe condition at the expense of the owner of the property in accordance with the terms of this Ordinance.
- 3) The maintenance of fences erected between residential properties shall be at the expense of the owner constructing the fence or as may be mutually agreed upon with the adjoining property owner; the city shall not enforce any agreement regarding a mutual or separate payment for the costs of maintenance or repair.

F) Permitting. Unless otherwise provided, no person shall erect, re-erect, alter or relocate any fence unless a permit has first been obtained from the Department of Public Services, unless a review has been conducted by the city Department of Public Services verifying no permit or fee is required. The Department of Public Services shall have the authority to issue a fence permit, provided the application satisfies all requirements of this article and other applicable laws of the city and the state. An application for a fence permit shall be submitted to the Department of Public Services and shall include:

- 1) Plans and specifications showing the dimensions, materials and required details of erecting the fence.
- 2) Plans indicating the location of the parcel of land upon which the fence is to be erected, the property line and the position of the fence in relation to adjoining houses, buildings or structures (it shall be the responsibility of the person erecting the fence to identify the property lines).
- 3) A plot plan or survey which shall be attached to the application and which shall show the property line.
- 4) Such other information as the Department of Public Services may require showing full compliance with this and other applications of the city and the state.
- 5) The assigned fee, as set by the fee schedule adopted by resolution of the Council and, paid to the Department of Public Services at the time the application is filed.

G) Exceptions and Appeals. Deviations from this section may be allowed in the circumstances described herein:

- 1) Churches, day care facilities, and private schools shall be exempt from the location requirements of subsection D(1).
- 2) Any party who has been refused a fence permit by the Department of Public Services for a proposed fence erection may seek a variance from the provisions of this article by filing a claim of appeal to the Zoning Board of Appeals. The Zoning Board of Appeals shall follow its normal procedural requirements for variances.
- 3) At the variance hearing, the Zoning Board of Appeals may grant a variance from the provisions of this Article upon a finding of all of the following:



- a) The particular physical surroundings, shape or topographical conditions of the property would render compliance with the provisions of this Article difficult and would likely result in a particular hardship on the person erecting the fence as distinguished from inconvenience of the article requirements or a desire to increase financial gain or avoid the financial expense of compliance.
 - b) Strict enforcement of the provisions of this article would be futile.
 - c) The type of fence and the location proposed would not pose a significant risk to the public health, safety and general welfare.
 - d) The benefit of the fence to the general public and/or the applicant under the circumstances outweighs any risk to the health, safety and general welfare of the residents of the city.
 - e) A variance would be in the best interest of the city and not against the spirit and intent of this Section.
- 4) In issuing a variance from the strict letter of the provisions of this Ordinance, the Zoning Board of Appeals may modify any fence requirement or place reasonable conditions or restrictions upon issuance of a permit.



PLANNING COMMISSION MEETING

DATE: November 8, 2023

SUBJECT: Zoning Ordinance Rewrite

SUMMARY: At the October 24, 2023 Planning Commission meeting, the Commission expressed interest in the following:

1. A timeline of the Zoning Ordinance Rewrite process and next steps. McKenna will be presenting this during our meeting.
2. Compiling Commission and community feedback on the draft ordinance chapters to guide future work on the second and subsequent drafts. McKenna is working on a memo summarizing this feedback, which will be supplemented by additional items from City staff.
3. Create a sub-committee to advance the draft ordinance for the joint benefit of the full Commission and the Grosse Pointe Park community. Commissioners Saros, Stachecki, and Taylor volunteered to serve on this committee. Committee work is expected to begin after the public open house events, while the specific logistics and scope of work will be developed in the near future.

What about the Transition District?

Given the feedback from both the Planning Commission and the community, the transition district is being removed from the ordinance draft. Replacement regulations will need to be developed. McKenna will continue this conversation during our meeting.

What happens next?

- The open house events will be held on December 2 and 4th. More information, including location, is forthcoming. Leading up to the Open House events, a full draft of the Zoning Ordinance will be made available for public review. Please note the document still needs to be modified to remove the Transition District. One-pager memos will be developed for each of the proposed zoning districts.
- The sub-committee will organize its scope of work.

FINANCIAL IMPACT:

RECOMMENDATION: N/A

PREPARED BY: Warren Rothe, Assistant City Manager



PLANNING COMMISSION MEETING

DATE: November 8, 2023

SUBJECT: Conflict of Interest Review

SUMMARY: The City Attorney was requested to provide an overview of conflicts of interest involving members of the Planning Commission. The City Attorney will be attending the meeting to explain their analysis, which is attached for your review. As a convenience, the current Planning Commission Bylaws have been included for your reference.

FINANCIAL IMPACT:

RECOMMENDATION: Review the letter from the City Attorney.

PREPARED BY: Warren Rothe, Assistant City Manager



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November 3, 2023

Planning Commission
City of Grosse Pointe Park
15115 E. Jefferson Ave.
Grosse Pointe Park, MI 48230

Re: Conflict of Interest Zoning Text Amendments

Dear Planning Commission:

Our office was asked to provide an opinion regarding conflicts of interest in reviewing proposed zoning ordinance text and map amendments. It is our understanding that there is some concern that it may be a conflict of interest for individuals who own property within the City to vote on proposed zoning ordinance text and map amendments as members of the Planning Commission.

Each local unit of government is empowered to create a Planning Commission pursuant to the Michigan Planning Enabling Act, MCL 125.3801 *et al.* The Planning Enabling Act specifically states that “[b]efore casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the planning commission. Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office. Unless the legislative body, by ordinance, defines conflict of interest for the purposes of this subsection, the planning commission shall do so in its bylaws.”¹ The Planning Enabling Act goes on to state that the Planning Commission shall adopt bylaws “for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.”²

¹ MCL 125.3815(9).

² MCL 125.3819.

As required by the Planning Enabling Act, the Planning Commission adopted amended Bylaws on December 8, 2022. The Bylaws do define a conflict of interest as required by the Planning Enabling Act. Specifically, the Bylaws state that “[a] conflict of interest exists if any member has a personal or financial interest in the matter or has an interest such that the member cannot be unbiased in the decision-making process.” The Bylaws require that a member declare a conflict of interest in three (3) situations. These are as follows:

1. A relative or other family member is involved in any request for which the Commission is asked to make a decision;
2. The Planning Commission member will benefit financially, either directly or indirectly, from either a business or financial interest in the property involved in the request or from the Member’s business or financial interest in the applicant’s company, agency, or association;
3. There is a reasonable appearance of a conflict of interest, as determined by the Planning Commission member declaring such conflict.

In this case, it is unlikely that a Planning Commission member would have a personal or financial interest in a zoning text or map amendment that would give rise to a conflict of interest because the amendments are not specific to a single parcel but, instead, apply to whole zoning districts.

Additionally, unlike with a use permitted subject to special conditions, or a site plan approval, the Planning Commission is simply a recommending body when it comes to zoning ordinance amendments. In other words, the Planning Commission does not have final authority to approve or deny a zoning ordinance amendment. Rather, the Planning Commission reviews the zoning ordinance amendments proposed and either recommends approval or denial. The amendments are then brought before the City Council for final consideration.

It is our understanding that one of the concerns in this situation is a parcel of property that is owned by a corporation that is connected with Saros Real Estate. It is our understanding that, under the proposed zoning text and map amendments, this parcel of property would be changed from the current zoning district of B1 – Local Business District to the new Neighborhood Mixed Use District. There is a perception that this would create an opportunity for financial gain for Planning Commission Member, Jimmy Saros.

Unlike a standard Conflict of Interest, this particular situation will not automatically result in financial gain for Mr. Saros or his family. Rather, this situation appears to be more of a what is colloquially referred to as a “conflict of loyalty” or a “conflict of duty”. In other words, in this situation, Mr. Saros does have both his obligation to his business interests and to his duties as a Planning Commission member. However, this is not uncommon. In fact, pursuant to the Planning Enabling Act, the “membership of a planning commission shall be representative of important segments of the community”. The Planning Enabling Act specifically contemplates that the members of the Planning Commission are to be residents of the municipality that they serve. This means that the members of the Planning Commission are intended to have a financial and personal interest in the community that they serve and that these zoning ordinance amendments will present conflicts of loyalty for all commission members in some sense or another.

In this particular situation, the zoning ordinance has not been comprehensively reviewed or thoroughly amended in decades. The proposed amendments represent whole cloth changes to the ordinance and every single property in the city is scheduled to be rezoned. As a result, because the members of the Planning Commission all have interests in property in the City by design, every single Planning Commission member is going to be affected by the proposed zoning ordinance amendments which presents a conflict of loyalty for every member of the Commission. Despite these conflicts of loyalty, it is clear that no conflict of interest exists in accordance with the Planning Commission Bylaws.

In sum, unless a Planning Commission Member is considering the request of a relative or would directly benefit financially from a matter before the Planning Commission, then there is no conflict of interest. When there are conflicts of loyalty like in the instant case, then it is best practice for these to be disclosed but the decision of whether or not to abstain from voting is left to the particular Planning Commission member.

If you have any questions or concerns, please do not hesitate to contact our office.

Very truly yours,

THE KELLY FIRM, PLC

Morgan A. McAtamney
Morgan A. McAtamney

CITY PLANNING COMMISSION OF THE CITY OF GROSSE POINTE PARK

AMENDED AND RESTATED BYLAWS

Adopted, effective immediately, 12/08/2022

As amended and restated through 12/08/2022

I. Name and Purpose

- A. The name shall be the City of Grosse Pointe Park City Planning Commission, hereafter known as the “Planning Commission.”
- B. These Amended and Restated Bylaws are adopted by the Planning Commission to facilitate the performance of its duties as outlined in P.A. 33 Of 2008, as amended, being the Michigan Planning Enabling Act, (M.C.L.A. §125.3801 *et seq.*), hereinafter “the Act.”
- C. The Planning Commission was formed in 1957 pursuant to Act 285, Public Acts of Michigan, 1931, M.C.L.A. §125.31 *et seq.*

II. Membership

A. Members.

- 1. Members of the Planning Commission shall be appointed by the Mayor subject to the approval of the City Council.
- 2. The Planning Commission shall consist of seven (7) members, six (6) of whom shall be representative, insofar as possible, of important segments of the community, such as economic, governmental, educational, and social development, in accordance with the major interests as they exist in the City.
- 3. One (1) member of the Planning Commission shall be an *ex-officio* member, namely, a member of the City Council appointed by the Mayor subject to approval by a majority vote of the Council. An Administrative officer of the City selected by the Mayor may serve on the Planning Commission as an administrative liaison and a non-voting member.
- 4. All members shall serve for a term of three (3) years, or until their successor takes office, except that the term of the *ex-officio* member shall correspond to their respective official tenure. Terms shall expire in September.
- 5. No member of the Planning Commission, other than *ex-officio* members, shall hold any other office or position with the City. Members of the Planning Commission shall be qualified electors of the City.

III. Meetings

- A. Attendance. In accordance with the City's Charter, if any member of the Planning Commission misses four (4) consecutive regular meetings, or twenty-five percent (25%) of Planning Commission meetings in a fiscal year, said member may be found guilty of nonfeasance, following a public hearing in accordance with Article VIII of these bylaws unless such absences are excused by majority vote of the City Council.
- B. If a member of the Planning Commission is appointed to another office, which is an incompatible office with his or her membership on the Planning Commission, then on the effective date of the appointment to the other office, that shall result in an automatic resignation from the Planning Commission. If a member of another office is appointed to the Planning Commission, which is an incompatible office with his or her membership in the other office, then on the effective date of the appointment to the Planning Commission, that shall result in an automatic resignation from the other office.
- C. Rules for Meetings.
 - 1. Meeting procedures and conduct shall comply be generally consistent with Robert's Rules of Order, unless superseded by The Open Meetings Act (MCL 15.261, et seq.), the Planning Enabling Act, or these amended Planning Commission By-Laws.
- D. Regular meetings.
 - 1. Regular meetings of the Planning Commission will be held at such time and place, as the Commission shall determine from time to time.
 - 2. Notices of regularly scheduled Planning Commission meetings shall comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meeting Act M.C.L.A. §15.261 *et seq.*).
- E. Special Meetings.
 - 1. Special meetings of the Planning Commission shall be called by the Chairperson, or at the request of the City Manager.
 - 2. Notices of special meetings shall be given to members of the Planning Commission at least forty-eight (48) hours prior to such meeting and shall state the purpose, time, day, month, date, year and location of the meeting (the Secretary may delegate this function to staff). In addition, notices shall comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meetings Act M.C.L.A. §15.261 *et seq.*).
- F. Quorum. More than half the total number of seats for members of the Planning Commission, regardless of if vacancies exist or not, shall constitute a quorum for the transaction of business and the taking of official action for all matters before the Planning Commission. Whenever a quorum is not present at a regular or special meeting, those present shall adjourn the meeting to another day.

G. Planning Commission Action. Action by the Planning Commission on any matter on which a hearing is held shall not be taken until the hearing has been concluded.

H. Ex Parte contact.

1. Members shall avoid ex parte contact about matters where an administrative decision is before the Planning Commission.
2. Despite one's best efforts it is sometimes not possible to avoid ex parte contact. When that happens, the Member should take detailed notes on what was said and report to the Planning Commission at a public meeting or hearing what was said, so that every member and other interested parties are made aware of what was said.

IV. Officers

- A. Selection. At the regularly scheduled meeting of each year, the Planning Commission shall select from its membership a Chair, Vice-Chair, and Secretary. All offices are eligible for reelection. In the event the office of the Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the Planning Commission shall select a successor to the office of Vice-Chair for the unexpired term. In the event the office of the Secretary becomes vacant, the Planning Commission shall appoint a successor for the unexpired term. The Planning Commission or Secretary may also designate another person who is not a member of the Planning Commission to be the recording secretary.
- B. Tenure. The Chair, Vice-Chair and Secretary shall take office immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office.
- C. Chair's Duties. The Chair retains his or her ability to discuss, make motions and vote on issues before the Commission. The Chair shall have all duties and powers as provided under the Act.
- D. Vice-Chair's Duties. The Vice-Chair shall act in the capacity of Chair, with all the powers and duties found herein of these Rules, in the Chair's absence.
- E. Secretary's Duties. The Secretary shall have all duties as provided under the Act.
 1. Execute documents in the name of the Commission.
 2. Be responsible for the minutes of each meeting, pursuant to these Bylaws if there is not a recording secretary.
 3. Review the draft of the minutes, sign them, and submit them for approval to the Planning Commission and shall have them spread in suitable volumes. Copies of minutes shall be distributed to each member of the Planning Commission prior to the next meeting of the Planning Commission (the Secretary may delegate this duty to Planning Commission staff).

4. Receive all communications, petitions, and reports to be addressed by the Planning Commission, delivered or mailed to the Secretary in care of the Planning Department Office.

V. Record

- A. Minutes and Records. The Planning Commission Secretary (or his or her designee) shall keep, or cause to be kept, a record of Planning Commission meetings, in accordance with the requirements of the Michigan Open Meetings Act.

VI. Committees

- A. Ad Hoc/Advisory Committees. The Planning Commission or Chair may establish and appoint ad hoc/advisory committees for special purposes or issues, as deemed necessary, to provide recommendations to the full Planning Commission. Ad hoc/advisory committees are only allowed to make recommendations to the Planning Commission.
- B. Citizen Committees. The Planning Commission or Chair may establish citizen committees with the consent of the Planning Commission. Membership can be any number, so long as less than a quorum of the Planning Commission serve on a citizen committee at any given time. The purpose of the citizen committee is to have more citizen and municipal government involvement, to be able to use individuals who are knowledgeable or expert in the particular issue before the Planning Commission and to better represent various interest groups in the City.

VII. Conflict of Interest

- A. Definition. A conflict of interest exists if any member has a personal or financial interest in the matter or has an interest such that the member cannot be unbiased in the decision-making process. A Planning Commission member shall declare a conflict of interest when:
 1. A relative or other family member is involved in any request for which the Commission is asked to make a decision;
 2. The Planning Commission member will benefit financially, either directly or indirectly, from either a business or financial interest in the property involved in the request or from the Member's business or financial interest in the applicant's company, agency, or association;
 3. There is a reasonable appearance of a conflict of interest, as determined by the Planning Commission member declaring such conflict.
- B. Failure to Disclose a Conflict. Should a Planning Commission Member fail to disclose a conflict of interest prior to casting a vote on a matter constitutes malfeasance in office.

VIII. Removal of Members

The Grosse Pointe Park City Council may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

IX. Powers.

The Planning Commission shall have all powers provided under the Act, the City's Charter and the City's Code of Ordinances.



PLANNING COMMISSION MEETING

DATE: November 8, 2023

SUBJECT: Approve 2024 Meeting Dates

SUMMARY: Secretary Rothe is recommending the following dates for holding Planning Commission meetings in 2024. These dates will be discussed and are open to modification by the Commission. Mondays are being proposed, in order to align with certain Commissioners' known conflicts. For the first six months, meetings are scheduled monthly as finalization and adoption of the new zoning ordinance is anticipated. From there, the Commission could return to meeting bimonthly if it so chooses.

- Monday January 15, 2024
- Monday February 19, 2024
- Monday March 18, 2024
- Monday April 22, 2024
- Monday May 20, 2024
- Monday June 17, 2024
- Monday August 19, 2024
- Monday October 21, 2024
- Monday December 9, 2024

FINANCIAL IMPACT:

RECOMMENDATION: Motion to approve the meeting dates as presented/amended.

PREPARED BY: Warren Rothe, Assistant City Manager