

ORDINANCE NO. 1185

**AN ORDINANCE OF THE CITY OF CASHMERE, WASHINGTON,
AMENDING CHAPTER 2.48 OF THE CASHMERE MUNICIPAL CODE,
AMENDING PROVISIONS RELATING TO THE CITY PLANNING
COMMISSION; AND SETTING AN EFFECTIVE DATE.**

WHEREAS, the City staff and City Planning Commission have worked together over the past several weeks to update the City Code provisions related to the City Planning Commission as set forth in Chapter 2.48 of the Cashmere Municipal Code; and

WHEREAS, the City staff and the Planning Commission recommend the adoption of this Ordinance; and

WHEREAS, the Mayor and City Council have reviewed the provisions of this Ordinance and determined that adoption of this Ordinance is in the best interest of the citizens of the City of Cashmere; NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF CASHMERE, WASHINGTON DO
ORDAIN AS FOLLOWS:**

Section 1. Chapter 2.48 of the Cashmere Municipal Code is hereby amended to read as follows:

Chapter 2.48

PLANNING COMMISSION

Sections:

2.48.010 Created - Membership - Terms, Appointment, and Compensation.
2.48.020 Officers.

- 2.48.030 Secretary.
- 2.48.040 Commissioner Attendance.
- 2.48.050 Quorum.
- 2.48.060 Powers and Duties.
- 2.48.070 Meetings.
- 2.48.080 Order of Business and Agenda Format.
- 2.48.090 Public Hearings.
- 2.48.100 Voting.
- 2.48.110 Conflict of Interest.
- 2.48.120 Ex Parte Communication.
- 2.48.130 Amendments.

2.48.010 Created - Membership - Terms, Appointment, and Compensation.

There is established a Planning Commission, consisting of seven members who shall serve without compensation and be selected as follows:

- A. All members shall be selected by the Mayor and confirmed by the City Council.
- B. At the time of appointment and throughout their term of office, each member of the Planning Commission shall reside within the City Urban Growth Area. Any member who ceases to qualify as a member of the Planning Commission under this subsection during his/her term of office, shall forfeit the office.
- C. The terms for the positions shall be staggered. Planning Commission members in positions 1, 2 and 3 have been appointed to terms expiring December 31, 2013. Planning Commission members in positions 4, 5, 6, and 7 have been appointed to terms expiring December 31, 2011. Following the expiration of the aforesated terms, each member appointed to a Planning Commission position shall serve for four (4) years, except as otherwise provided in this Chapter.
- D. Vacancies occurring, other than through the expiration of terms, shall be filled for the unexpired term of the position number vacated.
- E. Prior to the expiration of any term, a notice of the expiration of the term and existence of the opening on the Planning Commission shall be advertised at least once in the City's newspaper of record. Individuals serving on the Planning Commission may re-apply to continue to serve following the expiration of a term.

2.48.020 Officers.

The Planning Commission officers shall consist of a chairperson and vice chairperson, who shall be nominated by the Planning Commission members and elected by a majority vote. Officers' terms shall be for one (1) calendar year. Officers shall serve until the Planning

Commission members nominate and elect new officers. Officer nominations and elections shall be conducted at the first regular Planning Commission meeting held in each calendar year. A member of the Planning Commission may serve as the chairperson for no more than two (2) consecutive calendar years. The vice chairperson shall act as the chairperson in the absence of the chairperson. The chairperson and vice chairperson may make motions, second motions, and vote just as any other Planning Commission member.

2.48.030 Secretary.

The Mayor shall designate a City employee to serve as secretary to the Planning Commission. It shall be the duty of the secretary to document planning commissioner attendance at meetings, prepare minutes of all Planning Commission meetings, and provide copies of the minutes, including planning commission member attendance documentation, to the Mayor and City Council in a timely manner as directed by the Mayor.

2.48.040 Commissioner Attendance.

Any commissioner anticipating to be absent from any Planning Commission meeting shall notify the secretary at least twenty-four (24) hours in advance. The secretary shall document the notice in the minutes of the Planning Commission meeting and provide immediate written notice to the Mayor when any commissioner fails to attend three (3) consecutive regularly scheduled meetings or five (5) regularly scheduled meetings in a calendar year. The Mayor shall review and consider the commissioner notices of intended absence, if any, and decide whether the commissioner should be removed from the Planning Commission. In the event the Mayor determines that the Planning Commission member should be removed from the Planning Commission, the Mayor shall provide notice of this written decision to the Planning Commission secretary, chairperson, and the removed Planning Commission member within fifteen (15) days following receipt of the written notice from the secretary.

2.48.050 Quorum.

A majority of the membership of the Planning Commission shall constitute a quorum for transaction of business. Unless otherwise specified by state law or City ordinance (i) a quorum shall be required for the transaction of any business of the Planning Commission, and (ii) in actions requiring a vote of the Planning Commission a favorable vote of the majority of the quorum shall be required for approval of all motions. Any action taken at a regular or special meeting of the Planning Commission shall be deemed and taken as an action of the Planning Commission.

2.48.060 Powers and Duties.

A. The Planning Commission shall have all powers and perform all duties specified for the planning agency in Chapter 35A.63 RCW, as the same exists now or may hereafter be amended, together with any other duties or authorities which may be conferred upon the Planning Commission by the laws of the state or the ordinances or resolutions of the City;

provided, that nothing in this chapter shall be construed as limiting the right of the City to exercise any power granted to any class of city as provided by law.

B. Specific matters. The City Council may refer to the Planning Commission for its review, recommendation, and report any ordinance, resolution, or other proposal relating to matters and subjects upon which the City Council determines Planning Commission review, recommendation and report is desirable. In any such instances, the Planning Commission shall promptly review the matter and make its recommendation and report to the City Council.

C. Rules of procedure. The Planning Commission may adopt rules of procedure for the conduct of meetings and other functions delegated to the Planning Commission by the City Council; provided, that the rules of procedure adopted shall be in accordance with state laws, this Chapter, and other City ordinances. The rules of procedure need not be approved by the City Council.

D. Prior actions of the Planning Commission. All previous actions of and business transacted by and/or under the auspices of or on behalf of or in the capacity of the Planning Commission are ratified and approved by the City Council.

2.48.070 Meetings.

A. Regular meetings of the City Planning Commission shall be held on the first Monday of each month, beginning at 5:00 p.m. at City Hall, or at such other location as the Planning Commission may, from time to time, direct. All Planning Commission meetings shall be subject to the State of Washington Open Public Meetings Act.

B. When a regular Planning Commission meeting is scheduled to occur on a day designated as a City holiday in Section 2.36.070 of this Code, as the same exists now or may hereafter be amended, the regular Planning Commission meeting shall be held on the following business day, beginning at 5:00 p.m.

C. Special meetings of the Planning Commission may be called and conducted pursuant to the provisions of the State of Washington Open Public Meetings Act.

D. All public hearings of the Planning Commission shall be tape recorded. Minutes of all public meetings of the Planning Commission shall be kept in compliance with generally accepted records management standards applicable to Planning Commission meetings in the State of Washington.

E. During the first quarter of each year, the City Council and Planning Commission shall hold a joint public meeting for the purpose of reviewing community wide planning related issues and the annual work plan of the Planning Commission.

2.48.080 Order of Business and Agenda Format.

Unless otherwise determined by the Planning Commission at the commencement of a meeting, the general order of business and agenda format for Planning Commission meetings shall be as follows:

- A. Roll call attendance
- B. Approval of minutes of previous meeting(s)
- C. Correspondence
- D. Report of officers and committees
- E. Old business
- F. New business
- G. Adjournment

2.48.090 Public Hearings.

In addition to regular Planning Commission meetings and those hearings required by law, the Planning Commission may, at its discretion, hold special public hearings when the Planning Commission determines such hearings would be in the best interest of the public. The following rules and procedures shall apply to all hearings held by the Planning Commission:

A. Notice of any special public hearing of the Planning Commission shall be published at least once in the official City newspaper of record.

B. The record of each hearing conducted by the Planning Commission shall include, but not be limited to the following materials, documents, and records:

- 1. The application or petition;
- 2. The department staff report;
- 3. All evidence received, which shall include oral testimony given at the hearing, all exhibits and other materials provided for consideration by the Planning Commission;
- 4. A statement of all matters upon which the Planning Commission determines that it should take official notice;
- 5. Tape recording of the hearing;
- 6. The environmental determination made pursuant to state law and Title 18 of the Cashmere Municipal Code (if applicable);
- 7. Recommendation of staff containing the findings of fact and conclusions of law upon which the recommendation is based; and
- 8. Any other plans, reports, or documents required by applicable local, state or federal regulations.

C. A record of all hearings shall be kept in the form of minutes and a record shall be kept of those speaking before the Planning Commission.

D. The procedures for all hearings held by the Planning Commission shall be generally as follows:

1. The chairperson shall declare the public hearing open.
2. The chairperson shall advise that everyone present will be given an opportunity to be heard and state that the hearing is being recorded and that prior to speaking, each individual shall be required to state their name and address for the record.
3. If the hearing is on a quasi judicial matter and the Appearance of Fairness Act applies, the chairperson shall conduct the following inquiry:
 - a. The chairperson shall request anyone who has an objection to the chairperson or any other Planning Commission member participating to state so now and provide the reasons for the objection on the record.
 - b. The chairperson shall ask the Planning Commission members if any have an interest in the property or issues to be presented. The chairperson shall ask Planning Commission members if they can hear and consider this matter in a fair and objective manner.
 - c. The chairperson shall request any member of the Planning Commission to place on the record the substance of any communication each has had outside of the hearing with opponents or proponents on the issue to be heard. After the communication is placed on the record, the chairperson shall request whether any interested individuals wish to challenge whether the Planning Commission member shall hear and consider the matter.
 - d. Any Planning Commission member challenged shall determine whether they should step down and remove themselves from the hearing room.
4. The chairperson shall request City staff to make its presentation.
5. The applicant or petitioner shall be invited to comment.
6. The chairperson shall invite comments from citizens in favor of the proposal.
7. The chairperson shall invite comments from citizens against the proposal.
8. The chairperson shall invite the applicant to rebut the opposition position.
9. The chairperson shall request whether the Planning Commission members have questions of the applicant/petitioner, citizens, or City staff.
10. The chairperson shall declare the public hearing closed.

11. The Planning Commission shall deliberate on the record and discuss potential findings of fact, conclusions of law, and action.

2.48.100 Voting

The minutes of each Planning Commission meeting shall record by roll call the votes of each Planning Commission member whether for or against a proposal or an abstention. A refusal to vote shall be considered and recorded as an abstention and all abstentions shall be counted as votes against the pending motion for purposes of determining whether a motion has passed. A tie vote shall be considered a denial of the motion.

The chairperson shall request an explanation from any Planning Commissioner refusing to vote or abstaining from voting on any matter and the explanation, if any is provided, shall be recorded in the minutes of the Planning Commission meeting.

Unless otherwise provided by law, a vote of the Planning Commission may be to recommend approval with conditions and revisions to the application or proposal. Non-participating Planning Commission members with an Appearance of Fairness Act or with an ethical or financial conflict of interest with respect to the matter being voted upon shall be considered absent from the meeting for purposes of determining whether a quorum exists to consider the matter.

2.48.110 Conflict of Interest

Planning Commission members shall declare a conflict of interest and abstain from participating in a hearing or deliberations on a request when:

A. The Planning Commission member or a family member by blood or marriage is involved in any matter upon which a Planning Commission recommendation is sought;

B. The Planning Commission member has a business or financial interest in the property involved in the request, or has a business or financial interest in the applicant's company, agency, or association; and/or

C. The Planning Commission member has: (i) an Appearance of Fairness Act conflict of interest with respect to any quasi-judicial matter, or (ii) a common law or statutory ethical or financial conflict of interest under Washington State Law.

Any Planning Commission member who determines he or she should not participate due to a conflict of interest should state the nature of the conflict on the record of the meeting of the Planning Commission and leave the meeting room where the Planning Commission meeting or hearing is being conducted.

2.48.120 Ex Parte Communication

Planning Commission members shall avoid ex parte communications with applicants and opponents on quasi judicial matters pending before the Planning Commission. To the extent ex parte communications occur, each Planning Commission member shall state on the record of each Planning Commission meeting and/or hearing when the matter is considered the substance of the ex parte communication and confirm that the Planning Commission member can fairly and impartially consider the request. In the event the Planning Commissioner is unable to state that he or she can consider impartially the pending request, the Planning Commission member shall so state on the record of the Planning Commission meeting or hearing and leave the place where the meeting or hearing is being conducted.

2.48.130 Amendments

The provisions of this Chapter shall be reviewed annually by the Planning Commission and any recommendations for amendment of the provisions of this Chapter will be considered and forwarded to the City Council for possible action.

Section 2. If any section, sentence, clause, or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

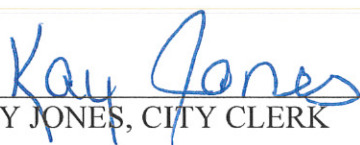
Section 4. This Ordinance shall take effect and be in full force five (5) days after this Ordinance or a summary thereof consisting of the title is published.

APPROVED:



MAYOR GORDON IRLE

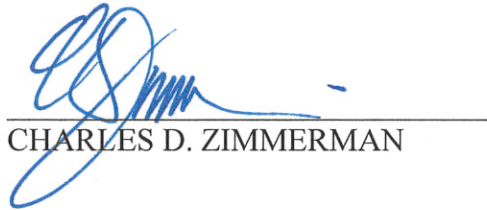
ATTEST/AUTHENTICATED:



KAY JONES, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

BY:



CHARLES D. ZIMMERMAN

FILED WITH THE CITY CLERK	:	<u>4/26/11</u>
PASSED BY THE CITY COUNCIL	:	<u>5/9/11</u>
PUBLISHED	:	<u>5/18/11</u>
EFFECTIVE DATE	:	<u>5/23/11</u>
ORDINANCE NO.	:	<u>1185</u>