

# Bylaws: Planning Commission

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The Village of Benzonia is engaged in the Redevelopment Ready Communities (RRC) Program, which is administered by the Michigan Economic Development Corporation (MEDC). The following are bylaws which have been updated by the planning commission and also reference a prior ordinance (2018-01) adopted by the Village Council on January 8, 2018 with the purpose of Re-Authorizing the Planning Commission. These bylaws have been created to assure they meet expectations of the RRC program and the Michigan Planning and Enabling Act.

## 1. Name and Purpose

- A. The name of this Commission shall be the Village of Benzonia Planning Commission.
- B. These Bylaws are adopted by the Commission to facilitate the performance of its duties as outlined in Public Act 33 of 2008, as amended, known as the Michigan Planning Enabling Act.
- C. These Bylaws are also adopted to facilitate the duties of the Commission for administration of the zoning ordinance as outlined in Public Act 110 of 2006, as amended, known as the Michigan Zoning Enabling Act.

## 2. Membership

- A. Members. Members of the Commission are appointed by the Village President with approval of the Village Council pursuant to the Village of Benzonia's Planning Commission Ordinance, 2018-02, Section 2, "Membership and Appointment."
  - i. Each member shall represent and advocate for what is best for the Village of Benzonia as a whole, putting aside personal or special interests.
  - ii. Membership shall be representative of important segments and geography of the Village of Benzonia to the extent practicable. The membership shall be representative of important segments of the Community, such as industry, natural resources, recreation, tourism, education, public health, government, transportation and commerce.
    - a. The Commission shall consist of seven (7) members.
  - iii. Members shall be Village residents.
  - iv. One member shall be a member of the Zoning Board of Appeals.
  - v. Members should have experience, training, and/or interest in matters related to land use and urban planning and zoning. Important segments to consider include environmental, educational, forestry, governmental and municipal, recreation and tourism, industrial and economic, transportation and communication, sanitation, environmental health, housing, and human services.
  - vi. Ex-Officio Members: One of the Planning Commission members shall be an ex-officio member who shall either be the Village President or a member of the Village Council, and one of the Planning Commission members shall be an ex-officio member who shall be a Village administrative official. All members, excluding ex-officio members, shall have full voting rights.
  - vii. Liaisons. The purpose of liaisons is to provide Village of Benzonia officials and administration the ability to participate in discussions with the Commission, in addition to speaking in public comment, and nothing else. Liaisons cannot vote, introduce motions, initiate any other parliamentary action, be counted for a quorum, or be expected to comply with attendance requirements. Liaisons if not appointed are:
    - a. Village staff and their agents and consultants.

# Bylaws: Planning Commission

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- b. Village of Benzonia Attorney
  - c. Other County Commissioner or County Administrators.
  - d. Manager of the County Road Commission
  - e. The County Register of Deeds.
  - f. County/District Health Department
  - g. County Conservation District
  - h. Regional planning staff.
- viii. No employee of the Village other than the ex-officio members, shall be a member of the Planning Commission.
- B. Attendance. A member absent from three (3) consecutive regularly scheduled meetings shall be reported to the Village Council for delinquency. Delinquency shall be grounds for the Village Council to remove member for nonfeasance or misconduct, after holding a public hearing on the matter. The ex-officio Secretary shall keep attendance records and report delinquent members to the Village Council for further consideration.
- i. Vacancies occurring for any reason shall be filled for the remainder of the unexpired term by appointment of the Village President with the approval of the Village Council.
- C. Removal. A member of the Planning Commission may be removed by the Village Council for reasons pursuant to the Village of Benzonia's Planning Commission Ordinance, 2018-02, Section 7, "Removal for Cause."
- D. Training. Each member shall have attended at least four hours of training in planning and zoning during the member's current term of office. Training shall be provided by one or more of the following organizations: Michigan Association of Planning, American Planning Association, Michigan State Extension, Michigan Municipal League, Michigan Economic Development Corporation, or training and/or continuing education programs at a recognized Michigan university or other appropriately qualified entity.
- i. Training may be compensated if the adopted Village of Benzonia budget for that fiscal year includes funds to compensate members for attendance and if the training and educational programs have been approved by the Village Council.
- E. Conflict of Interest.
- i. Each member of the Commission shall avoid conflicts of interest and/or incompatibility of office. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:
    - a. Issuing, deliberating on, voting on, or reviewing a case concerning the member, on land owned by the member, or if the case involves land adjacent to the members property.
    - b. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss.
    - c. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to the commissioner, or a friend or family member of the commissioner.
    - d. Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, stepchildren, grandchildren, parents, brothers, sisters, grandparents, parents in-law, grandparents in-law, or members of his or her household.
    - e. Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is an applicant or agent for an applicant, or has a direct interest in the outcome.
  - ii. If a question exists whether the circumstances actually present a conflict of interest, the Planning Commission member or zoning staff shall make a reasonable attempt to contact the city attorney

# Bylaws: Planning Commission

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prior to the Planning Commission meeting at which the matter that may give rise to the conflict of interest will be considered to obtain a legal opinion concerning whether a conflict of interest legally exists. If the Planning Commission member or zoning staff is not able to obtain a legal opinion from the city attorney then the Planning Commission may, by majority vote of the members present, adjourn the case to a specific time, date, and place in order to obtain a written opinion from the city attorney.

- iii. When a conflict of interest exists, the member of the Commission, or committee, shall do all of the following immediately, upon first knowledge of the case and determining that a conflict exists:
  - a. declare a conflict exists at the next meeting of the Commission or committee:
  - b. cease to participate at the Commission or committee meetings, or in any other manner, or represent one's self before the Commission, its staff, or others, and
  - c. during deliberation of the agenda item before the Commission or committee, remove one's self from the front table where members of the Commission sit, until that agenda item is concluded.
- iv. Incompatibility of Office. If a member of the Commission is appointed to another office, which is an incompatible office with his or her membership on the Commission, then on the effective date of the appointment to the other office, that shall result in an automatic resignation from the Commission. If a member of another office is appointed to the 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 Commission, that shall result in an automatic resignation from the other office.

## 3. Duties of all Members

- A. Ex Parte contact
  - i. Members shall avoid Ex Parte contact about cases where an administrative decision is before the commission whenever possible.
  - ii. 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 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.
- B. Site Inspections
  - i. Site inspections shall be done by the zoning administrator or other staff. A written report of the site inspection shall be orally presented to the Commission at a public meeting or hearing on the site.
  - ii. Commission members may accompany the zoning administrator or staff on a site inspection only if a quorum is not present pursuant to the Village of Benzonia's Planning Commission Ordinance, 2018-02, Section 8.
  - iii. The entire Commission may commence site inspections as a group if the inspection is posted as a public meeting.
- C. Code of Conduct. Each member upon appointment, shall abide by any code of conduct in effect for the Village of Benzonia. Gifts shall not be accepted by members of the Planning Commission.

## 4. Officers

- A. Selection. At the first regular meeting of each year, the Commission shall select a Chairperson and Vice-Chairperson from its membership. All officers are eligible for re-election. Nominations shall be

# Bylaws: Planning Commission

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made from the floor as open nominations. A voice vote election shall take place to elect officers. In the event the office of the Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the Commission shall select a successor to the office of Vice-Chair for the unexpired term. The Community Development Director or his or her designee shall be the ex-officio Secretary.

- B. Tenure. The Chair and Vice-Chair shall take office immediately following their election 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 and vote on issues before the Commission. The Chair shall:
  - i. Preside at all meetings.
  - ii. Rule out of order any irrelevant remarks; remarks which are personal; remarks about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanities; or other remarks which are not about the topic before the Commission.
  - iii. Restate all motions as pursuant to Section 5.E of these Bylaws.
  - iv. Appoint sub-committees.
  - v. May call special meetings pursuant to Section 5.B of these Bylaws.
  - vi. Act as an ex-officio member of all sub-committees of the Commission.
  - vii. Review items on the agenda with staff prior to a Commission meeting if he or she so chooses.
  - viii. Periodically meet with the Village staff to review department operation, procedures, and to monitor progress on various projects.
  - ix. Represent the Commission, along with the Council Liaison, in front of the Village Council.
  - x. Perform such other duties as may be ordered by the Commission.
- D. Vice-Chair's Duties. The Vice-Chair shall:
  - i. Act in the capacity of the Chair in the Chair's absence.
  - ii. Perform such other duties as may be ordered by the Commission.
- E. Secretary's Duties. The Secretary shall:
  - i. At each meeting of the Commission take notes for minutes.
  - ii. Execute documents in the name of the Commission.
  - iii. Be responsible for the minutes of each meeting.
  - iv. Review the draft of the minutes and submit them for approval to the Commission. Copies of minutes shall be distributed to each member of the Commission prior to the next meeting of the Commission.
  - v. Receive all communication, petitions, and reports to be addressed by the Commission.
  - vi. Keep attendance records pursuant to Section 2.B of these Bylaws
  - vii. Provide notice to the public and members of the Commission for all regular and special meetings, pursuant to the Open Meetings Act, Public Act 267 of 1976, as amended.
  - viii. Prepare an agenda for Commission meetings pursuant to Section 5.J of these Bylaws.
  - ix. Perform such other duties as may be ordered by the Commission.
- F. Terms. Each member, except ex-officio members, shall serve a three (3) year term, pursuant to the Village of Benzonia's Planning Commission Ordinance, 2018-02, Section 3, "Terms of Office."

## 5. Meetings

- A. Regular Meetings. Meetings of the Commission will be held the third THURSDAY of every month at 7:00 PM at the Village Office, located at 1276 Michigan Avenue, Benzonia, Michigan. When the regular meeting date falls on a legal holiday, the Commission shall select a suitable alternate day in

# Bylaws: Planning Commission

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- the same month. An annual notice of regularly scheduled meetings shall comply with Public Act 267 of 1967, as amended.
- i. Meeting shall be held not less than four (4) regular meetings per year, pursuant to the Village of Benzonia's Planning Commission Ordinance, 2018-02, Section 8, "Planning Commission Meetings."
  - B. Special Meetings. Special meetings shall be called in the following manner:
    - i. By the Chair.
    - ii. By any two members of the Commission.
    - iii. By the Chair at the request of a non-member of the Commission, upon payment of the special meeting fee.
    - iv. Notices shall be given to each Commissioner 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. Notices shall comply with the Open Meetings Act.
  - C. Recess. The Chair, or the Commission after the meeting has been in session for three hours shall suspend the Commission's business and evaluate the remaining items on its agenda. The Commission shall then decide to finish that meeting's agenda, may act to continue the meeting on another day, or complete some agenda items and postpone certain agenda items to the next regular meeting.
  - D. Quorum. More than half the total number of seats for members of the Commission, regardless if vacancies exist or not, shall constitute a quorum for the transaction of business. Whenever a quorum is not present at a regular or special meeting, those present shall adjourn the meeting to another day.
  - E. Motions.
    - i. Motions shall be restated by the Chair before a vote is taken.
    - ii. Findings of Fact. All actions taken shall include each of the following parts:
      - a. A finding of fact, listing what the Commission determines to be relevant facts in the case to eliminate misleading statements, hearsay, irrelevant, and untrue statements.
      - b. Conclusions to list reasons based on the facts for the Commission's action, often directly related, or not, to a finding of compliance, or noncompliance, to standards.
      - c. The Commission's action: recommendation, approval, approval with conditions, or denial.
  - F. Voting. Voting shall be by voice and shall be recorded as passing or failing. Roll call votes will be recorded only upon request by a member of the Commission and shall be "yes" or "no". Members must be present to cast a vote. Voting by proxy shall not occur. The affirmative vote of a majority of those present or the majority of a quorum, whichever is greater, shall be necessary for the adoption of motions. The affirmative vote of two-thirds the total number of seats for members of the Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any master plan or amendment to a master plan.
  - G. Commission Action. Action by the Commission on any matter which requires a public hearing shall not be taken until the hearing has been concluded.
  - H. Parliamentary Procedure. Parliamentary procedure in Commission meetings shall be informal. However, if required to keep order, Commission meetings shall then be governed by Robert's Rules of Order Newly Revised (12th Edition) for issues not specifically covered by these Bylaws. Where these Bylaws conflict, or are different from Robert's Rules, then these Bylaws prevail.
  - I. Public Participation. All regular and special meetings, hearing, records, and accounts shall be open to the public.
    - i. All public comment that is pertinent to the Commission, but unrelated to a specific item on the agenda may be presented during "Citizen Comments".

# Bylaws: Planning Commission

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- ii. The public will be given the opportunity to speak on each case after the applicant, owner, or agent has presented his or her case to the Commission. If an agenda item or case does not have an applicant presentation, then public comment will occur after introduction by the Chair or presentation by staff or consultant.
- iii. The Chair may limit the amount of allowed for each person wishing to make public comment at a Commission meeting. The Chair may ask members of the audience to caucus with others sharing similar positions so they may select a single spokesperson. If a single spokesperson is selected, that individual shall be able to make public comments at the Commission meeting with an extended time limit.
- J. Order of Business. The Secretary shall prepare an agenda for each meeting and the order of business shall be as follows:
  - i. Call to Order, roll call, and Pledge of Allegiance
  - ii. Citizen Comments (public hearings)
  - iii. Approval of the Minutes
  - iv. Approval of the Agenda
  - v. Commissioner Comments
  - vi. Old Business (unfinished business)
  - vii. New Business
  - viii. Reports and Correspondence
  - ix. Adjournment
- K. Delivery of Agenda. The agenda and accompanying materials shall be hand delivered and/or electronically delivered to Commission members so that members shall receive the packet of information on Friday of the weekend prior to the regular meeting date, if possible.
- L. Placement of Items on the Agenda.
  - i. The Zoning Administrator shall be the office of record for the Commission.
  - ii. The Zoning Administrator may receive items on behalf of the Commission between the time of adjournment of the previous Commission meeting and eight days prior to the next regularly scheduled Commission meeting.
  - iii. Items received by the Zoning Administrator between seven business days prior to the next regularly scheduled Commission meeting and the regularly scheduled Commission meeting shall be placed on the following month's agenda.
    - a. The Commission may act on those items of a minor nature or table action to the subsequent regular or special Commission meeting.
    - b. Those items of a major nature, or items normally receiving staff review, analysis, or recommendation shall be tabled until the subsequent regular or special Commission meeting.
  - iv. The deadline to add major items to the Commission's meeting agenda shall be seven business days prior to the next regularly scheduled Commission meeting.

## 6. Record

- A. Minutes and Record. The Secretary shall keep a record of Commission meetings, which shall at a minimum include the following:
  - i. Copy of the meeting posting pursuant to Public Act 267 of 1976 2.
  - ii. Copy of the minutes, and any attachments brought to the meeting which shall include a summary of the meeting, in chronological sequence of occurrence:

# Bylaws: Planning Commission

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- a. Time and place the meeting was called to order
  - b. Attendance
  - c. Indication of others present
  - d. Summary or text of points of all reports given at the meeting, and who gave the report and in what capacity. Alternatively, a copy of the report may be attached, if offered in writing.
  - e. Summary of all points made in public participation or at a public hearing by the applicant, officials, and guests and an indication of who made the comments. Alternatively, a copy of the report may be attached, if offered in writing
  - f. Full text of all motions introduced, whether seconded or not, who made the motion and who seconded the motion. For each motion, the following should be included:
    1. A statement of what is being approved (i.e. special use permit, site plan, etc.)
    2. The location of the property involved (parcel number is best)
    3. What exhibits were submitted (list each one, describe each, number or letter each and refer to the letter or number in the minutes)
    4. What evidence was considered (summary of discussion by members at the meeting)
    5. The finding of fact
    6. Reasons for the decision made (If the decision is to deny, then each reason should refer to a section of an ordinance which would be violated, or with which not complied)
    7. The decision
    8. A list of all required improvement if any
    9. List of all changes to the map/drawing/site plan that was submitted
  - g. The type of vote and its outcome. If a roll call vote, indicate who voted yes, no, abstained, or a statement the vote was unanimous. If not a roll call vote, then simply a statement: "Motion passed/failed number of votes in majority to number of votes in minority".
  - h. When a voting member enters or leaves a meeting.
  - i. When a voting member or staff member has a conflict of interest and when the voting member ceases and resumes participation in discussion, voting, and deliberations at a meeting.
  - j. The attendance and ruling if a quorum exist or not.
  - k. The start and end of each recess.
  - l. Summary of announcements.
  - m. Summary of informal actions or agreement on consensus.
  - n. Time of adjournment.
  - iii. Records of any action, support documents, maps, site plans, photographs, correspondence received, attached as an appendix to the minutes.
- B. Retention. Commission records shall be preserved and kept on file according to the following schedule, as adopted by the State of Michigan:
- i. Minutes, oaths of officials, zoning ordinances, master plans, other records of decisions, Commission or department publications, correspondence: Permanent.
  - ii. Bills and/or invoices, receipts, purchase orders: 7 years.

## 7. Sub-Committees

- A. Ad Hoc Sub-Committees. The Commission or Chair may establish and appoint ad hoc sub-committees for special purposes or issues, as deemed necessary. Less than a quorum may serve on an ad hoc sub-committee at any time.

# Bylaws: Planning Commission

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- B. Citizen Sub-Committees. The Commission, the Chair, or the Community Development Director or his/her designee may establish and appoint citizen committees with the consent of the Commission. Membership may be any number as long as less than a quorum of the Commission serves on a citizen sub-committee at any time. The purpose of a citizen sub-committee is to have more citizen and administrative involvement, to better represent various interest groups in the Village of Benzonia, and to be able to utilize individuals who are knowledgeable in the particular issue before the Commission.
- C. Rules of Procedure. Sub-Committees shall follow the meeting rules and record keeping procedures outlined in Sections 5 and 6, when applicable.

## 8. Zoning Responsibilities

- A. All powers of the zoning commission have been transferred to this Commission, pursuant to MCL 125.3301 of the Zoning Act.
- B. Zoning Adoption or Amendment. The commission shall review and act on all proposed zoning ordinances or zoning amendments pursuant to the Zoning Act. At least one public hearing shall be held on each proposed zoning ordinance or amendment, with notices given as specified in the zoning ordinance and Zoning Act. After the hearing, action shall be in the form of a recommendation to the legislative body. At a minimum, the recommendation shall include:
  - i. Zoning plan for the areas subject to zoning or zoning amendment;
  - ii. The establishment of or modification of zoning districts, including the boundaries of those districts;
  - iii. The text of a zoning ordinance or amendment with the necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole; and
  - iv. The manner of administering and enforcing the zoning ordinance.
- C. Special Land Use. The commission shall review and act on all special uses pursuant to the Zoning Act and zoning ordinance. At least one public hearing shall be held on each proposed special use application, with notices given as specified in the zoning ordinance and Zoning Act. After the hearing, action shall be in the form of a motion with finding of fact (per section 5.E.2 of these bylaws), conclusions as a list of reasons for the action, and the Commission's action.
- D. Site Plan Review. The Commission shall review and act upon all site plans which the zoning ordinance requires Commission action. Action shall be in the form of a motion with finding of fact (per section 5.E.2 of these bylaws), conclusions as a list of reasons for the action, and the Commission's action.
- E. Appeals. The Commission shall not act, or otherwise hear issues on zoning ordinance interpretation, zoning map interpretation, non-use (dimensional) variances, or use variances. Such matters shall be exclusively the jurisdiction of the Zoning Board of Appeals.

## 9. Plan Reviews

- A. The Commission shall review all adjacent, or contiguous, local government plans and adjacent county plans.
- B. Action shall be in the form of a motion with finding of fact (per section 5.E.ii of these bylaws), conclusions as a list of reasons for the action, and the Commission's action.
- C. The review should focus on:
  - i. Increasing coordination of planning between governments.
  - ii. Consistency or inconsistency with the Village's plan(s) for matters such as:
    - a. Border issues



# Bylaws: Planning Commission

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- b. Issues of greater than local concern
- c. Comparison with local plan contents
- d. Comparison with county/regional plan contents
- e. Comparison to other relevant adopted plans such as recreation master plan, historic preservation plan, downtown plan, TIF or brownfield redevelopment plan, etc.
- f. Comparison to various implementation strategies.
- iii. The review shall be in the form of a letter and shall consider:
  - a. The review stages are near the end of the plan adoption process. Do not extend the adoption more than necessary.
  - b. Focus only on significant issues. Suggest solutions rather than only pointing out what is wrong.
  - c. Be clear and document statements to improve the quality of planning for the entire area. This process is to improve coordinating planning, not to undermine relationships or exacerbate tensions between governments.
  - d. Mutual respect so that the comments are factual, objective, and based on sound planning principles.

## 10. Planning Commission Responsibilities.

- A. Planning Commission responsibilities and duties shall include all those delegated to the Commission by the Planning Enabling Act, the Zoning Planning Commission Enabling Act, and the Village of Benzonia Zoning Ordinance, and pursuant to the Village of Benzonia's Planning Commission Ordinance, 2018-02, Sections 9 and 10. Examples include but are not limited to:
  - i. Preparation of a Village Master Plan and any necessary amendments for recommendation to the Village Council;
  - ii. Preparation of a Village Parks and Recreation Master Plan, required 5 year plan review, and any necessary amendments for recommendation to the Village Council;
  - iii. Preparation of a Village Zoning Ordinance and any necessary amendments for recommendation to the Village Council;
  - iv. Review of the annual Capital Improvement Plan (CIP) and subsequent recommendation to Village Council.
  - v. Consideration of requested rezoning of property and recommendation to the Village Council;
  - vi. Consideration of proposed subdivision plats and recommendation to the Village Council;
  - vii. Hear and decide any requests for special land use approvals;
  - viii. Review and decide any requests for site plan approval;
  - ix. Prepare and adopt Bylaws for the Planning Commissions;
  - x. Perform any other duties as may be assigned to it by the Village Council or pursuant to Village ordinances or State statutes.

## 11. Other Matters to be Considered by the Commission

- A. Commission Action. The following matters shall be presented for consideration at a meeting of the Commission:
  - i. At least annually, adopt the priorities for the Commission's plan of work.
  - ii. Prepare an annual report of the Commission and review at a joint meeting with the Village Council.

# Bylaws: Planning Commission

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- a. The annual report shall contain the proposed Planning Commission annual budget. The Village Council shall annually appropriate the funds necessary, in its judgment, for the operation of the Planning Commission during the fiscal year.
- iii. Planning Department's and Commission's budget requirements for the fiscal year and request for appropriation.
- iv. Review of the bylaws and recommend changes as appropriate.

## 12. Commission Staff

- A. Authorization. The Commission staff may consist of a Zoning Administrator and such other personnel as may be authorized after the budget for the same is approved by the Village Council.
- B. General responsibility. The Commission staff is charged with the duty of preparation and administration of such plans as are authorized by the Commission, appropriate for the Village of Benzonia and its environs and are within the scope of the Planning Act and the Zoning Act.
- C. Advocacy. The Commission staff shall not attempt to represent the views of comments of a member of the public at a public hearing or Commission meeting. Staff shall indicate a member of the public wishing to make their views known and they should do so directly to the Commission in person, through an agent, or by providing written comment.

## 13. Adoption, Repeal, and Amendments

- A. Upon adoption of these Bylaws of August 18, 2022, at a regular Planning Commission Meeting they shall become effective, and all previous Bylaws shall be repealed.
- B. These rules may be amended or modified provided that such amendment or modification is presented in writing at a meeting and that favorable action by the full membership is taken thereon at a subsequent meeting.
- C. A quorum of the Planning Commission, by due motion and recorded vote, may suspend or vary the application of these rules to a particular application, case, problem, or proceeding pending before the Planning Commission.