CITY OF FRESNO PLANNING COMMISSION

RULES AND REGULATIONS

ARTICLE 1. OFFICERS OF THE COMMISSION

SECTION 1. Officers.

A. **Chairperson, Vice-Chairperson.** The officers of the Commission shall be a Chairperson and a Vice-Chairperson, who shall be members of the Commission elected by the Commission as soon as practicable, following the first day of July of every year, and who shall serve at the pleasure of the Commission.

1. In the conduct of the elections referred to in Charter Section 904, the Commission shall endeavor to conduct its nominations and elections such that each commissioner desirous and able of doing so shall have an opportunity of serving as Chairperson.

B. **Secretary.** There shall also be a Secretary designated by the Chief Administrative Officer, who shall not be a member of the Commission. The written order of the Chief Administrative Officer designating the particular person to serve as Secretary shall be filed with the Commission, and upon such filling, the person designated shall be vested with all the powers and duties of Secretary pursuant to these rules and regulations and the Code.

SECTION 2. Powers and Duties of Officers.

A. The **Chairperson** shall preside at all meetings of the Commission, swear witnesses in all proceedings of the Commission where sworn testimony is taken, and exercise and perform such other powers and duties as are conferred upon the Chairperson by law and these rules and regulations.

B. The **Vice-Chairperson** shall have and perform all the powers and duties of the Chairperson in the absence of the Chairperson from any meeting of the Commission or whenever the Chairperson is unable for any reason to act.

C. The **Secretary** shall:

1. Keep and record the minutes of all meetings of the Commission, and furnish a copy of the minutes of each regular and special meeting to each member of the Commission;

2. Keep complete files of all communications to the Commission, all pleadings and documents filed with the Commission, and all other necessary records of the Commission;

3. Act as custodian of the minutes and of all the books, documents, papers, and records of the Commission;

4. At the request of the Commission, the Director of Development, the City Attorney, or any party or the attorney of any party to any proceeding filed pursuant to the Code issue and execute and have attested by the City Clerk in the name of the City of Fresno, subpoenas ordering the attendance of any person as a witness, or the production of evidence, at any meeting of the Commission.

5. Perform such other duties as the Commission may from time to time prescribe.

ARTICLE 2. MEETINGS

SECTION 1. Regular Meetings. The regular meetings of the Commission shall be held on the first and third **Wednesday** of every month at 6:00 p.m., at the City Hall of the City of Fresno or such other place as shall be determined in advance and announced by posting notice thereof on the official bulletin board at the City Hall. Whenever a regular meeting dates falls on a holiday, such regular meeting shall be held at the same hour on the next regular meeting day. The Commission may, however, on a majority vote of its members dispense with any regular meeting. Regular meetings shall generally be concluded by 10:00 p.m. unless extended by the Commission.

SECTION 2. Special Meetings. A special meeting may be called at any time by the Chairperson at his/her discretion, and the Chairperson shall call a special meeting at the written request of four members of the Commission. (Any applicable fees (unless waived) required by the Fresno Municipal Code shall first be paid by the applicant.) Notice of each special meeting shall be given by delivering personally or by mail a written notice thereof to each member of the Commission and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally or by mail at least twenty four hours before the time of such meetings as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted, and no other business shall be considered at such meeting. Such written notice may be dispensed with as to any member of the Commission who at or prior to the time the meeting convenes files with the Secretary a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

SECTION 3. Adjourned Meetings. The Commission may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any meeting, the Secretary may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be given in the same manner as provided in Section 2 of this article for special meetings unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within twenty-four hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this Section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified in these rules and regulations for regular meetings.

SECTION 4. Quorum. A majority of the members of the Commission shall constitute a quorum for the transportation of business. Except as may be otherwise provided by law and by these rules and regulations, a majority of a quorum may decide all matters of business which come before the Commission.

SECTION 5. Resolutions and Motions. The actions and decisions of the Commission at any meeting shall be expressed by motion, duly seconded and voted upon by roll call vote of the members and the ayes and noes and members present and not voting shall be entered upon the minutes of the meeting. The adoption of by the Commission of findings or recommendations to be made and reported to the Council may be made by resolution adopted on motion duly seconded and carried. The Planning Commission Secretary shall periodically make available for review the Resolutions adopted by the Planning Commission.

SECTION 6. Reports to the Council. When the Commission has by resolution made a recommendation to the City Council, this action shall be reported to the Council as soon as practicable thereafter, but before or with the item except as otherwise provided for in the Code. The action of the Commission shall be reported by the Director or a member of the Director's staff designated by the Director, but the Chairperson, or in the Chairperson's absence, the Vice-Chairperson, or another member of the Commission appointed by the Chairperson, shall be present at the City Council meetings when deemed advisable by the Commission. In instances whereby, the action of the Planning Commission differs from the recommendation of staff, the Planning Commission Secretary shall properly advise the Commission when said matter is to appear before City Council, in the event that any Commission member wishes to be present during deliberations.

SECTION 7. Order of Business. At the regular meetings of the Commission, the following shall be the order of business:

- **I.** Roll Call
- **II.** Procedures
- **III.** Consent Calendar
  - A. Minutes
  - B. Communications
  - C. Entitlements (The Chairperson should announce each entitlement item on the consent calendar)
- **IV.** Scheduled Matters
- **V.** Continued Matters
- **VI.** New Matters
- **VII.** Chairperson's Report
- **VIII.** Unscheduled Oral Reports
  - A. General Public Communications
  - B. Members of the Commission and Staff
- **IX.** Adjournment

The presiding officer may vary the order of business whenever in the presiding officer's discretion it will expedite the conduct of the meeting. Upon motion unanimously adopted by the members present, the reading of the minutes may be dispensed with.

SECTION 8. Agenda.

A. **Agenda.** The order of business of the Commission shall be conducted from a written agenda prepared by the Secretary in consultation with the Chairperson. The agenda shall specify the time and location of the meeting and a brief general description of each item of business to be transacted or discussed. No action shall be taken on items not appearing on the posted agenda. Matters to be brought before the Commission shall be processed as provided in this section. The Secretary in consultation with the Chairperson shall decide what items of business shall be placed thereon, and shall place such items of business on the agenda for any regular or special meeting of the Commission. Items of questionable necessity shall be placed on the agenda by the Secretary after consultation with the Chairperson or Vice-Chairperson. A Commission Member may request the Secretary to place any matter on the agenda, and it shall be so placed unless the Chairperson or Vice-Chairperson rules that the matter is not germane to Commission business as provided by law. In the case of such ruling, the Secretary shall place the request and the ruling before the Commission for its decision at the next regular meeting. In general, there shall be no more items on any one agenda than can reasonably be accommodated within the time allotted for the meeting, [notwithstanding the provisions of Article 2, Section 1, Regular Meetings, which dictates a 10:00 p.m. ending time.] These may be composed of applications for rezoning, subdivision

for approval, and such other items of business as may be before the Commission. Where it is deemed desirable to limit the number of applications at one meeting this may be done. When the work load becomes exceptionally heavy, special meetings shall be called.

B. **Distribution of Agenda.** The Secretary will endeavor to make materials to be considered by the Commission available for distribution to interested persons by 4:00 p.m. of the Friday before any regular meeting. This distribution shall include mailing of copies of the agenda and all supporting materials to any such interested person who has previously deposited sufficient funds with the Secretary to cover the cost of mailing. At least seventy-two hours before a regular meeting, the Secretary shall post a copy of the agenda in a location that is freely accessible to members of the public and shall sign and maintain a declaration of the time and place the agenda is posted. [The Secretary shall also post the agenda on the City of Fresno Home Website on the Friday prior to the scheduled Planning Commission Meeting by 5:00 p.m.]

C. **Matters Not on Posted Agenda.** Notwithstanding subsection A, the Commission may take action on items of business not appearing on the posted agenda under any of the following conditions:

1. The Commission determines by a two-thirds vote, or, if less than two-thirds of the Commission members are present, a unanimous vote of those members present, that the need to take action arose subsequent to the agenda being posted as specified in subsection A above. A separate vote shall be taken in making any such determination. The Secretary shall reflect in the minutes what the need for action was and why the need arose after the posting of the agenda.

2. The item was posted pursuant to subsection A of this Rule for a prior meeting of the Commission occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

D. **Procedures for Alleged Violation of Open Meeting Rules.** Prior to any court action being commenced pursuant to Government Code Section 54960.1(a), the interested party shall make a demand of the Commission to cure or correct any action alleged to have been taken in violation of Government Code Section 54953 requiring that Commission meetings be open and public, or of Sections 2 or 8. The demand shall be in writing and clearly describe the challenged action of the Commission and nature of the alleged violation. The written demand shall be made and shall be filed with the Secretary within thirty days from the date the action was taken. Within thirty days of such filing, the Secretary shall place the matter on the Commission agenda for Commission

consideration. The Commission shall either cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct, or inform the demanding party in writing of its decision not to cure or correct the challenged action. If Commission takes no action within the thirty day period following such filing with the Secretary, the inaction shall be deemed a decision not to cure or correct the challenged action.

Upon receipt of a demand described above, an item with two sub-items shall be added to the next meeting's agenda, as follows:

1. The first sub-item shall be consideration of the demand, i.e., whether the challenged action can reasonably be said to have violated the Brown Act. Such sub-item may be considered in closed session pursuant to Government Code Section 54956.9.

2. The second sub-item shall be consideration of the underlying subject matter of the challenged action if the Commission decided, in considering the demand that the challenged action may have violated the Brown Act.

Should the Commission determine that corrective action is warranted as to any challenged action, it shall adopt a corrective action stating that the original action is superseded or rescinded as of the effective date of the corrected action. Such corrective action shall also describe the original action and why the corrective action is being taken.

SECTION 9. Continuances. No hearing or other matter before the Commission shall be continued except as follows:

A. Upon receipt of a request by the applicant or his representative for good cause shown in writing, and prior to the mailing of the official public notices announcing the time and date of the meeting, the Director or Secretary may reschedule the hearing date.

B. Upon receipt of a request of the applicant or his representative for good cause shown in writing, after the hearing or other matter has been announced by official public notice, but no less than five days prior to the scheduled hearing date, and upon payment by the applicant of the applicable fee to cover costs of public notification and readvertising, the Director or Secretary may reschedule the hearing date.

C. Upon motion of a member and a two-thirds majority vote in favor thereof, the Commission may continue any matter or hearing which may be legally continued. In addition, the Chairperson with the consensus of the Commission members present may continue those items on the agenda which, the

Chairperson determines cannot or will not be heard and completed within the remaining time allotted for that session.

SECTION 10. Other Rules for Conduct of Meetings. Robert's Rules of Order (Latest Revised Edition) shall govern in all matters of procedure not provided for herein or in the Code.

SECTION 11. Conduct of Hearings. Meeting shall be expedited to prevent undue to unnecessary delay. When a hearing is closed it shall remain closed except when the matter is continued to another date in which case the Chairperson may open the hearing for its continuance, and except when the Commission, upon two-thirds vote, opens the hearing. Unsolicited comments and additions of the city staff shall be made prior to the close of the hearing. Commissioners at any time may address pertinent questions to any person. Testimony, information and arguments made at hearings shall be germane to the question before the Commission and irrelevancies such as comments on race, religion, creed, political matters, etc., shall be ruled out of order by the Chairperson.

SECTION 12. Order of Procedure. The following shall be the order and procedure to be followed in the conduct of hearings:

1. Initial Staff Report & Analysis
2. Applicant's Presentation
3. Members of the public favoring the application
4. Members of the public opposing the application
5. Applicant's rebuttal (by one representative
6. Staff Summation (if necessary)
7. Close the hearing
8. Discussion and action, if any, by the Commission

SECTION 13. Limiting Length of Public Debate. The Chairperson, with the concurrence of the Commission, may limit either the number of persons speaking on a matter and/or the length of such oral presentations when, in the Chairperson's discretion, doing so:

A. Is reasonably necessary to avoid an undue consumption of time or a repetition of points or facts; or
B. Will expedite the conduct of the meeting; and
C. Will not deprive a person of a right guaranteed under applicable law.
D. Unless otherwise specified by the Chairman of the Planning Commission, all public testimony shall be limited to three minutes.

SECTION 14. New Matter. Except as mentioned below, the Chairperson should refuse to allow the receipt and consideration of any site plan, development plans or any technical data or information from one party concerning any application or

appeal, or which effectively amends an application or appeal, at the time of the hearing which has not been previously provided to another party for review at least three working days prior to the date scheduled for Commission hearing or consideration. However, background information which elaborates upon explains or illustrates data already analyzed by staff in connection with the item before the Commission (such as, but not limited to, photographs, elevations and graphs) may be received. Any plans, data or information offered by a party in violation of this rule may be received if the proponent consents to a continuance for review by the other, and upon any conditions the Commission deems appropriate for the analysis and consideration of the proffered information.

ARTICLE 3. COMMITTEES AND REPRESENTATION ON OTHER BOARDS.

SECTION 1. Appointment of Committees. The Chairperson shall appoint such committees of Commission members as the Commission shall from time to time authorize to investigate and report to the Commission on matters within its jurisdiction.

SECTION 2. Zoning Appeals Committee. Repealed August 3, 1988.

SECTION 3. Redevelopment Agency. Repealed August 3, 1988.

SECTION 4. Public Reports. Once every City fiscal year the Commission may issue a public report setting forth its consensus on the general state of City Planning in the City of Fresno. After the adoption of such a report by the majority of the Commission, those voting in dissent may concurrently submit a minority report. This report shall reflect the views of the Commissions and shall not be prepared in consultation with the staff or the City Council.

ARTICLE 4. DOCUMENTATION

SECTION 1. Policy. Policy for the guiding of the Commission when not set forth by law may be adopted by resolution of the City Council. In the absence of established policy the the Commission may by resolution establish policy and may request confirmation of such policy by the City Council.

SECTION 2. Staff Reports and Services. On all applications for rezoning, requests for approval of subdivision maps, proposed amendments to the Zoning Ordinance and other matters which may be brought before the Commission, the Director shall furnish written reports containing an analysis and recommendation. The Commission shall look to the Director for all information and staff services. The Director will be responsible for all assignments of staff members.

ARTICLE 5. ETHICS

SECTION 1. Conflict of Interest. No member of the Commission shall make, participate in making or in any way attempt to use the Commissioner's official position to influence a Commission decision in which such Commissioner knows or has reason to know he or she has a financial interest, as defined and made applicable to Planning Commissions under Article 1, Chapter 7, Title 9 of the Government Code (Conflicts of Interest Law § 87100 et seq.)

SECTION 2. Repealed by the Planning Commission on July 2, 1964.
SECTION 3. Disclosure of Interests. Commission members shall file those statements disclosing the interests required of and made applicable to the Commission under Articles 2 and 3, Chapter 7, Title 9 of the Government Code (Conflicts of Interest Law, §§ 87200 and 87300 et seq.).

SECTION 4. Appearances Before the City Council. Any Commissioner presenting a minority report to the Fresno City Council may do so as a member of the Commission but shall make it clear to the Council that such member is not presenting the sentiment of a majority of the Commission.
ARTICLE 6. AMENDMENTS TO RULES

SECTION 1. Amendments to Rules and Regulations. These rules and regulations may be amended by the Commission by a majority of all the members thereof at any regular or special meeting when at least 10 days' written notice of the proposed presentation of such amendment at such meeting has been given all members of the Commission in the manner prescribed herein for special meetings or when announcement of the proposed presentation of such amendment was recorded in the minutes of the previous regular meeting of the Commission.

ARTICLE 7. DEFINITIONS

SECTION 1. Definition of Terms. For the purpose of these rules and regulations certain words, phrases, and terms shall be construed as specified in this section.

A. "Commission" shall mean the Planning Commission of the City of Fresno.

B. "Code" shall mean the Fresno Municipal Code.

C. "By Law" shall mean by the Code, the Charter of the City of Fresno, the Constitution of the State of California, and any law of the state of California made applicable to chartered cities.

D. "Director" shall mean the Director of the Planning and Development Department.

ARTICLE 8. HEARINGS ON DISCIPLINARY APPEALS OF SPECIAL PERMITS

SECTION 1. Authority and Purpose.

The purpose of this Article is to provide a constitutionally fair but straightforward procedure to govern hearings on revocation or disciplinary modification of special permits made by the Director of Development pursuant to Fresno Municipal Code Section 12-405. The intent of this Article is to provide required Due Process to affected property owners, permit holders, property managers, tenants and other persons interested in property burdened by a special permit that is the subject of revocation or disciplinary modification, while also protecting the public's interest in efficient and economically sound process in special permit enforcement cases.

SECTION 2. General Commission Hearing Procedures Govern.

Except as otherwise expressly provided for herein, the procedures governing the setting of hearings, deferrals, continuances, the provision of notices, receipt of public testimony, the taking of evidence, and the conduct of hearings shall be as is provided for under Articles 1 through 7 of these Rules and Regulations, the Municipal Code, and other sources of law and practice governing Commission proceedings.

SECTION 3. Rules of Evidence.

(a) Oral evidence shall be taken only upon oath or affirmation.
(b) The hearing shall not be conducted according to the technical rules of law relating to evidence and witnesses. Any evidence may be admitted, provided it is relevant to the specific question at issue and it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law rule or statute which might make improper the admission of such evidence over objection in civil actions.
(c) In the event translation services are needed for the public, said services shall be provided by the City, with proper notification given to the City one week in advance of the scheduled public hearing by the requesting party.

SECTION 4. Commission Action.

(a) Prior to revoking any privilege granted under a special permit, or imposing a condition upon the use of land, the Commission shall find good cause therefore. "Good cause" shall include, but not be limited to, violation of any special permit condition.

(b) In the event the Commission determines to revoke the special permit in whole or in part, or take other action affecting an existing land use right or privilege recognized under the Municipal Code, the Department shall cause to be recorded against the affected parcel(s) a Notice of Permit revocation ("Notice"). The Notice shall expressly state the condition violated (or other basis for finding of good cause), the facts underlying the violation, and the date and decision of the Commission. A certified copy of the Commission's resolution on the case may be used for recordation in lieu of a separate document.

The foregoing **Rules and Regulations** of the Planning Commission of the City of Fresno were adopted by Resolution No. 3368 of the Planning Commission of the City of Fresno at its regular meeting of November 7, 1963.

The Rules and Regulations were amended by the Planning Commission on July 2, 1964, by repealing Section 2, Article 5, relating to the candidacy for office. Section 9 was repealed and readopted on January 9, 1968.

The Rules and Regulations were amended June 4, 1968. The meeting date was changed to Tuesday. Section 8 (B) of Article 2 and Section 4 of Article 5 were added.

These rules were amended by the Planning Commission with the addition of Article 8 on August 16, 1995.

These rules were amended by the Planning Commission with the amendment of Article 8 on August 17, 1999.

These Rules and Regulations were amended by the Planning Commission with the amendment of Articles 1-8 on April 22, 2009, as specified in the attached Resolution.

The foregoing **RULES AND REGULATIONS** of the City of Fresno, Planning Commission, were adopted by Resolution of the Planning Commission upon a motion by Commissioner Torossian, seconded by Commissioner Holt.

VOTING:	AYES:	Cherry, Vasquez, Torossian, Holt, Kissler
	NOES:	None
	NOT VOTING:	None
	ABSENT:	DiBuduo, Vang

DATED: April 22, 2009

KEITH BERGTHOLD, Secretary
Fresno City Planning Commission

PC Resolution No. 12952