

# **RULES OF PROCEDURE**

## **URBAN DESIGN COMMISSION OF THE CITY OF ATLANTA**

**1989 (AS AMENDED, 2010, 2015, 2017, and 2020)**

**Desmond Johnson**, Chair, Urban Design Commission

**Douglas H. R. Young**, Secretary, Urban Design Commission

### **RULE 1: APPLICATIONS**

#### **A. FILING**

(1) All sections which require an application shall be initiated by delivering a completed application to the Executive Director (or “Director”) on forms provided by the Director. Supporting documents and appropriate exhibits required by the City of Atlanta Zoning Ordinance (the “Zoning Ordinance”) shall accompany the application. Applicants may submit such other reasonable volume of information as they consider necessary to support the application. In all applications, the burden shall be on the Applicant to submit a complete Application which meets the requirement of the Zoning Ordinance. Documents submitted as a part of the Application shall be stamped as dated. In all applications deliberations on the Application shall be based on stamped and dated documents submitted with the Application, as well as the documents, testimony and other evidence presented at the hearing(s).

(2) All appeals to the Commission should be set for hearing by the Director. The Director shall prepare a record for the Commission containing all materials which were a part of the record before the Director. As with Applications, it shall be the burden of the Applicant to submit the documents necessary to meet the requirements of the City Code and/or establish the basis for the appeal.

#### **B. FEES**

Filing fees for all types of applications and matters before the Commission shall be established by City Council. Any fees for documents produced under the Open Records Act and extra copies requested as a part of litigation shall be as set by state law or the actual cost where state law does not set such a fee.

C. SCHEDULE OF HEARING DATES

- (1) When a hearing on an Application is required, a hearing date shall be set in accordance with the applicable provisions of Chapter 20 of the City of Atlanta Zoning Ordinance, as amended.
- (2) No later than November 30<sup>th</sup> of each calendar year, the Commission shall adopt and the Executive Director shall publish a schedule of hearings to be held by the Commission during the subsequent calendar year, including the closing dates by which the Staff must receive applications to be heard and the corresponding hearing dates.

D. NOTICE

Notice (posted on the City of Atlanta website, signs posted on property and for Type III's and IV's , mailed notices.) to the public of all hearings shall be made in accordance with Chapter 20 of the Zoning Ordinance. Notice shall be sent to individuals or entities only when required by the Zoning Ordinance.

E. MODIFICATIONS TO APPLICATION

If in the judgment of the Commission substantial changes are made in the presented plans, other than changes suggested by Staff, the application may be deferred, or may be referred to Staff, for further consideration before presentation to the Commission. Changes which cause re-submittal to Staff shall be treated as a new application only with regard to the time limits for consideration by the Commission found in Chapter 20 of the Zoning Ordinance. Any new material must be submitted as superseding application documents before the application can be re-considered by Staff.

**RULE 2: HEARINGS**

All hearings shall be held in accordance with the City of Atlanta Zoning Ordinance and shall be governed by these Rules of Procedure.

A. TIME LIMIT ON ARGUMENTS

- (1) The Applicant and those speaking in support of the application shall have ten (10) minutes for presentation of evidence and argument. The Applicant may reserve any portion of their time for rebuttal.
- (2) Those speaking in opposition shall have ten (10) minutes for presentation of evidence and argument.

(3) The Applicant or those speaking in favor or in opposition may have additional time if the request is made at the beginning of the presentation and the request is granted by the Commission. The Commission has sole discretion on granting additional time for any speaker.

(4) If additional time is allotted to those other than the Applicant speaking in favor of an Application, that same amount of time will be automatically added to the time allotted for those speaking in opposition.

## B. ORDER OF BUSINESS

(1) The order of business at each meeting shall be as follows:

- a. Introduction Commission members and Staff.
- b. Introduction and rules for conduct of meeting; matters pertinent to the functioning of the Commission.
- c. Approval of agenda (including removal of items from the consent agenda, if any).
- d. Approval of the minutes of the previous meeting(s).
- e. Nominations.
- f. Consent agenda items (if any).
- g. Review and comment applications for public and civic projects.
- h. New applications (including certificates of appropriateness, variances, review and comments for private projects, and appeals) in the order filed with the [Office of Design Staff](#).
- i. Deferred applications.
- j. Old business.
- k. New business.
- l. Adjournment.

(2) The order of business at any given meeting maybe amended by motion of the Commission at the time of the adoption of the agenda for that meeting.

(3) If an applicant is not present when the application is called, the Commission at its discretion may move that application to later in the agenda, including at the end of the agenda.

## C. CONSENT AGENDA

The Commission may use a consent agenda to approve applications by a single motion and vote. If a member of the Commission, the Applicant, or the general public wants to discuss an item on the consent agenda, that request must be made at the time of the adoption of the meeting agenda at the beginning of the meeting. Upon such request, that agenda item is removed from the consent agenda and considered during the meeting. The Commission then takes action on the remaining consent agenda items. If an item is removed from the consent agenda, that item will be heard in the order in which it was received by the Staff. Consent agenda items shall be separately recorded in the minutes.

D. ORDER OF ARGUMENT

Each application on the adopted agenda shall proceed as follows:

- (1) Staff introduction of application by way of reading the application into the record and as necessary, discussion of jurisdictional or regulatory issues, if any. The Commission may take action on regulatory or jurisdictional issues and make a decision on such issues prior to the remainder of argument. While such decision may be appealed, if the Commission determines that the application cannot be heard, the remainder of the argument need not be held unless the Commission so requests.
- (2) Staff reading of the recommendation as indicated on the agenda.
- (3) Opening statement and argument by Applicant.
- (4) Statements and argument of parties supporting the application.
- (5) Statement and argument of parties opposing the application.
- (6) Optional use of any remaining time for rebuttal by the Applicant.
- (7) Start of Executive Session for discussion, questions and comments by Commission Members, including questions of Applicant, Staff or interested parties.
- (8) Two minute response by Applicant prior to a motion in response to discussion, questions and comments from Commission members.
- (9) Motion for Finding of Fact by Commission members and a vote on that motion.
- (10) Motion for Action by Commission members as follows: approval, approval with conditions, deferral or denial.
- (11) Staff clarifications on the Motion for Action, if needed.
- (12) Vote by Commission members on Motion for Action.

E. OTHER PARTICIPATION BY THE PUBLIC

Members of the public may not otherwise address the Commission unless permitted to do so by the Chair.

F. APPEARANCE AND TESTIMONY

All persons appearing before the Commission shall state their name, address, and relationship to the application, and then shall state facts and argument relevant to the subject matter of the application. All statements shall be taken as though made under oath.

G. VIRTUAL HEARINGS

Hearings may be held via virtual teleconferencing platforms using the same rules of procedure listed above for in-person hearings with the following amendments:

- (1) Letters and other documentary evidence from the public and applicants for the Commission's consideration must be submitted no less than 2 hours before the start of

the hearing via a general email inbox that will be set up and maintained by the Office of Design Staff. Emails should conform to the following subject line naming convention: “[Letter of Support; Letter of Opposition; Documentary Evidence] – Application Number – Address.”

- (2) Applicants and those wishing to speak in favor of or against an application will be held in a virtual holding room. Participants will be let into the hearing channel by the Chair or the Office of Design Staff as their case is announced.
- (3) To ensure a quorum is maintained, the Chair shall ensure that the roll is called before the beginning of each application.
- (4) The chair or secretary needs to ask each member to state their vote orally for the record on each application considered.
- (5) Commissioners must signal their intent to comment to the Chair and be recognized before speaking.
- (6) In the opening statements, the Chair shall advise the following disclaimer: “If hearing participants lose their feed/connectivity, use the call-in number listed on the agenda to re-engage in the hearing.”
- (7) The Chair, or Office of Design staff, shall confirm that each applicant has provided a phone number which they can be contacted on if they lose connection during the hearing.
- (8) If the public feed is lost or a person is disconnected, the Chairperson, or Office of Design staff, will attempt to reconnect the hearing or person and business shall resume from the point of disconnection.
- (9) If the meeting feed cannot be reconnected, the Chairperson will adjourn the hearing.
- (10) If an applicant cannot be reconnected, the Chairperson will take a vote to move that matter to the end of the hearing and the Office of Design Staff will continue to attempt to contact the appellant. Where the applicant/appellant cannot be reconnected at that hearing, the Commission will defer that particular matter to a date certain.
- (11) Commission members and participants will be encouraged to provide feedback on technology issues and other issues that may improve the remote hearing process.

### **RULE 3: DECISIONS, RECONSIDERATION**

#### **A. FORM AND PROCEDURE OF DECISIONS**

- (1) All actions of the Commission shall begin on a motion by any member, and properly seconded, which shall state the Commission action desired, any conditions to be attached to such action, and shall include a proceeding finding of fact supporting the action proposed.
- (2) If a motion for action on the application is to be made which is contrary to the recommendation from the Staff, that motion must be preceded by a findings of fact motion which partially or fully rejections the findings of fact from the Staff and states the Commission’s own independent findings that may include findings by the Staff as well as the

Commission's own findings.

(3) Any action of the Commission may be reconsidered via a motion made immediately following announcement of the vote on such action and prior to the commencement of the following application; with the exception of the last application on the agenda in which such motion shall be made prior to the adjournment of the meeting.

#### **RULE 4: REGULAR MEETINGS**

##### **A. TIME**

All regular meetings shall convene at 4:00 p.m. on the second and fourth Wednesday of the month, unless a different time for convening is specified in the notice or call of the meeting.

##### **B. QUORUM**

(1) To hear any application pending before the Commission, a quorum must be achieved. A quorum of Commission members shall be defined as at least one-half of the members currently appointed to the Commission and shall never be less than four (4) members regardless of the number of appointees.

(2) The Chair shall be counted in the quorum and shall have a vote. The affirmative vote of at least a majority of the quorum shall be required to constitute action by the Commission on any question or matter before the Commission, unless a greater percentage is otherwise specifically required by law.

(3) If no quorum is achieved within 30 minutes of the publically advertised start of the Commission meeting, the meeting shall be considered cancelled. The Commission members in attendance may alter this rule by majority vote for any reason. If the meeting is cancelled, all agenda items on that meeting's agenda shall be heard at the beginning of the next meeting of the Commission.

(4) If quorum is lost during the meeting, any remaining agenda items on that meeting's agenda shall be heard at the beginning of the next meeting of the Commission.

#### **RULE 5: EVIDENCE**

##### **A. ADMISSIBILITY**

Testimony and evidence which would not necessarily be admissible under Title 24 of the Official Code of Georgia may be considered by the Commission under the standard applicable to administrative proceedings but the Chair may exclude or limit the introduction of irrelevant, immaterial and repetitive matter. The rules of privilege recognized by law shall be in effect.

B. COPIES OF DOCUMENTS

(1) Documentary evidence may be received in any form that can be reviewed by the Commission at the hearing provided that the original is submitted as part of the record of the Application. A copy of another document may be considered an “original” for the purpose of the hearing so long as the original is available for review if requested prior to its submission to the Commission.

(2) All documents submitted at the hearing shall be marked by the Secretary and included in the record. If original documents are submitted to the Commission, the offeror may request the return of original documentary evidence, provided complete and accurate copies can be created for the record of the Application. All requests for the return of original documentary evidence must be made within fifteen (15) days following the meeting at which the decision of the Commission was made on any application and the copy is made available and marked with the notation of the action in the record. the Staff may create the copies of original document and charge the offeror for the creation of the copy.

(3) A copy of the Rules of Procedure, the Zoning Ordinance and all provisions of the Charter and the Code of Ordinances of the City of Atlanta shall be considered to be available as a part of the hearing in any application without a specific motion of any party or Commission member but shall not be required to be included as a part of the documents actually maintained as the record. For the purposes of the appeal of any application to the Superior Court of Fulton County or DeKalb County, a certified copy of all or part of any of these documents may be submitted by the appellant and/or the respondent as they deem necessary.

C. OFFICIAL NOTICE

The Commission may take notice of facts within the specialized professional knowledge of its members who are appointed for the purpose of making such professional expertise available.

D. APPEAL OF PROCEDURAL RULES

All questions which may arise during a hearing which are not otherwise resolved by applicable law or these rules shall be decided by the Chair subject to appeal by any member to be decided forthwith by a vote on the question, “shall the ruling be sustained? A two-thirds vote of the members present shall overrule the Chair.

E. VOTING

All Commission members are required to vote on each application except where their reason for

an abstention or recusal has been entered into the record. A Commission member who has heard only one part of an application which has been deferred from prior meetings or who has not been present for the entire proceeding on an application may, but is not required, to abstain from the final vote.

F. RECORD

There shall be an official record maintained by the Executive Director, as custodian, for each application. This record shall consist of all application documents, and all oral, documentary and all other evidence of any kind received by the Commission at the hearing. When a decision of the Commission has been made other than to defer the hearing of the application, the record on a particular Application shall be considered closed for the purposes of an appeal to the Superior Court of Fulton County or DeKalb County except for the substitution of copies for originals as provided elsewhere in these Rules.

**RULE 6: DEFERRALS AND WITHDRAWALS**

A. DEFERRALS

- (1) Applications which appear on the agenda of the Commission may be deferred or postponed on motion of a member with or without approval of the Applicant or on request of the Applicant with consent of the majority of the Commission members present and voting. The length of deferral is at the discretion of the Commission.
- (2) Any deferral which occurs with the consent of any Applicant or at the request of any Applicant shall not be deemed to create an automatic approval of the application.
- (3) Any deferral which would otherwise create an automatic approval but for the consent of the Applicant may be considered a denial of the Application and appealed by the Applicant.
- (4) If an application has already been deferred two or more times by the Commission, the applicant or the applicant's representative must appear at the next scheduled hearing to request another deferral. The Commission may deem any requests for deferral subsequent to the second request as the withdrawal of the application or appeal, unless the Commission determines that unusual circumstances warrant another deferral.
- (5) Applications that are deferred by the Commission to a specific meeting in the future shall not receive new public notice.

B. WITHDRAWALS

- (1) Withdrawal of an application must be communicated to the Secretary of the

Commission prior to the public hearing for that application or directly to the Commission during the public hearing for the application.

(2) Upon receiving such a communication, the Commission may dispose of the application by voting to deny the application without prejudice. If an application is denied without prejudice, the applicant may resubmit the same request, or any substantially similar request, at any time in a new application.

**RULE 7: BOARD OFFICERS AND ADMINISTRATION**

A. CHAIR AND VICE-CHAIR

Chair and Vice-Chair shall be elected to serve for one (1) year as the first order of business at the first meeting of the year. The Executive Director or his/her designee shall serve as secretary.

B. CHAIR DUTIES

The Chair, the Vice Chair (in the Chair's absence), or the longest serving member of the Commission in attendance (in the Chair and Vice Chair's absence), shall preside at all meetings of the Commission and shall carry out all customary duties of the Chair. The Chair shall make all committee assignments.

C. EXECUTIVE DIRECTOR ("DIRECTOR")

(1) The Executive Director or a designee shall prepare all correspondence, documents, and writings for the Commission and for the Chair and shall distribute to the members all notices, agendas and supporting documents concerning meetings and applications

(2) The Executive Director or a designee shall receive, identify, and preserve all exhibits presented to the Commission for consideration on any matter pending before the Commission, and shall maintain proper files for all matters relating to the business and affairs of the Commission.

(3) The Executive Director or a designee shall perform such other duties pertaining to the business and affairs of the Commission as are assigned by the Chair from time to time. The Executive Director or a designee shall cause recordings to be made of the entire proceedings at every regular and special meeting of the Commission.

(4) Any duty of the Executive Director may be designated to a Staff member.

**RULE 8: CONFLICT OF INTEREST**

A. WHEN PARTICIPATION IS PROHIBITED

(1) No member of the Commission shall take part in the hearing, discussion, consideration, or determination of any application in which he or she, or his or her spouse or person related within the third degree to either of them according to the civil law system, has a financial or personal interest in the property or action concerned, or will be directly affected by the decision, or has or believes he or she has any other conflict of interest as defined by applicable law.

(2) No member of the Staff of the Commission or of any agency serving the Commission shall prepare or present arguments or reports or attempt to influence decisions of the Commission in any application in which the Staff member has a similar interest.

B. DISQUALIFICATION

(1) As soon as any Commission member or Staff member or members of any agency serving the Commission becomes aware of any potential conflict of interest in any application scheduled to come before the Commission, he or she shall notify the Chair or acting Chair of the particulars.

(2) Where the Chair finds that a conflict of interest clearly exists, he or she shall disqualify that person from acting in the application; request the disqualified member to leave the area during any discussion of the matter which creates the conflict, and cause the Executive Director to enter the circumstances in the record and to make arrangements for alternate services as are required.

(3) The Chair may also elect to forward questions of potential conflict of interest to the Board of Ethics.

C. DISCUSSION OF PENDING MATTERS

(1) No Commission member shall in any manner discuss any application with any parties prior to the Commission's deliberation on such application, or appear for, represent, or advise any party with respect to any application pending before the Commission. An unsolicited communication initiated by any person shall not be considered a violation of this rule so long as the Commission member does not further participate in the communication.

(2) Members of the Commission shall not express individual opinions on the proper judgment of any application with any persons prior to the determination of that application except in accordance with these rules.

D. CONTRACTS WITH APPLICANTS

(1) All Commission members shall notify the Commission regarding negotiations, employment, or contracts with persons/applicants who have matters pending before the Commission.

(2) No member of the Commission shall accept employment or work of any sort which exists as a specific result of an action taken by the Commission unless it is otherwise ruled by a vote of the Commission that such employment or work does not constitute a conflict of interest.

## **RULE 9: RESIGNATION**

### **A. RESIGNATION**

Resignation shall be accomplished by the Commission member via written or electronic communication to the Chair and the Executive Director. Any member who is absent for more than half of the scheduled meetings during any six (6) month period may be deemed to have resigned by the Chair. A member is deemed to be absent from a meeting if the member is not present for at least one-half of the meeting. The Executive Director shall notify the Mayor or the appropriate appointing authority of the vacated position.

## **RULE 10: SPECIAL MEETINGS**

### **A. CALL PURPOSE**

Special meetings of the Commission may be convened by the Chair when necessary for the conduct of the business and affairs of the Commission.

### **B. NOTICE TO THE COMMISSION MEMBERS**

Written notice setting out the date, time, place and purpose of the special meeting shall be sent to each member not less than five (5) days prior to the meeting date. Such notice may be waived by unanimous vote when all members of the Commission attend a special meeting. The special meeting notice requirements for Commission members described herein do not replace or nullify the applicable public notice requirements for the various applications that come before the Commission.

### **C. CONDUCT OF THE MEETING**

A special meeting of the Commission shall be conducted in the same manner as a regular meeting and hearing of the Commission.

## **RULE 11: GENERAL PROVISIONS**

A. GOVERNING LAWS

The Board shall be governed by the provisions of the City Charter, the Ordinances creating the Commission, the Zoning Ordinance of the City of Atlanta, other applicable laws of the City of Atlanta and the State of Georgia, if any, and the Rules of Procedure of the Commission.

B. ADOPTION OF RULES AND AMENDMENTS TO RULES

The Rules of Procedure, and any amendments to the Rules, shall be adopted by a vote of the majority of the quorum at a regularly scheduled Commission meeting for which said adoption appears on the agenda.

C. FILING OF RULES AND AMENDMENTS

A copy of these rules, and a copy of each amendment to these rules, shall be certified by the Executive Director and filed with the Clerk of Council.

D. COPY OF RULES

A copy of these rules and of the Ordinance creating this Commission, and any amendments thereto, shall be made available, upon request, to the public.

E. VARIANCES

The Commission shall not hear a variance application that is substantially the same as a variance request previously decided by the Commission within the last twelve (12) months. The Commission may by majority vote waive this rule and permit the re-hearing of such an application.

F. STAFF INTERPRETATIONS

Where a specific reference is not stated in the Historic Preservation Ordinance, the Zoning Code or the City Code, the Staff is authorized to make such reasonable interpretations as are necessary to give effect to the public policy goals set forth in the Statement of Intent.

G. AMENDMENTS TO THE CITY CODE

Any amendments to the Historic Preservation Ordinance, the Zoning Code or the City Code shall be considered to amend these rules such that they shall remain in conformity therewith at all times.

ADOPTED THIS 27<sup>TH</sup> DAY OF September, 2017.

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Desmond Johnson, Chair, Urban Design Commission

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DOUGLAS H.R. YOUNG, Secretary, Urban Design Commission

STATE OF GEORGIA  
COUNTY OF FULTON

CERTIFICATION

I DO HEREBY CERTIFY THAT THE PRECEDING PAGES CONTAIN THE RULES OF  
PROCEDURE OF THE URBAN DESIGN COMMISSION OF THE CITY OF ATLANTA  
AS ADOPTED BY THE COMMISSION ON JULY 26, 2017

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DOUGLAS H. R. YOUNG, Secretary  
City of Atlanta  
Urban Design Commission

Sworn and subscribed before me

this \_\_\_\_ day of \_\_\_\_\_, 2017

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Notary Public