

# Athens-Clarke County Historic Preservation Commission Bylaws and Rules of Procedure

## **I. Authority**

The Athens-Clarke County Historic Preservation Commission (hereinafter referred to as the “Historic Preservation Commission”) has been created pursuant to the Georgia Historic Preservation Act, O.C.G.A. Section 44-10-21, et. seq., and the Athens-Clarke County Historic Preservation ordinance, adopted by the Mayor and Council of the City of Athens on November 4, 1986 as amended December 8, 1992 by the Athens-Clarke County CEO and Commission with an effective date of implementation of January 1, 1987, and shall be governed by the terms thereof.

## **II. Powers and Duties**

- A. The Powers and Duties of the Athens-Clarke County Historic Preservation Commission (hereafter referred to as the “Historic Preservation Commission”) are established in Section 8-5-2(d) and other appropriate sections of the Code of Athens-Clarke County.
- B. The Historic Preservation Commission shall follow, in the consideration of Historic Preservation decisions and recommendations and the administration thereof, the Procedures established in Chapter 8-5 of the Code of Athens-Clarke County.

## **III. Composition and Design of the Historic Preservation Commission**

- A. **Members:** The Historic Preservation Commission shall be composed of seven (7) members who are residents of Athens-Clarke County. The Athens-Clarke County Mayor and Commission shall appoint members.
- B. **Terms:** The term of office of the members of the Historic Preservation Commission shall be three (3) years or until their successors are appointed. No one may serve on the Historic Preservation Commission more than two full three (3) year consecutive terms.
- C. **Vacancies:** Resignations from the Historic Preservation Commission must be submitted in writing to the Clerk of Commission. The Athens-Clarke County Mayor and Commission, upon receiving written charges and after a public hearing, shall remove members of the Historic Preservation Commission for just cause, including, but not limited to:
  - 1. Failure to attend three (3) consecutive, regular voting meetings of the Historic Preservation Commission.
  - 2. Failure to maintain permanent residence within the jurisdiction of Athens-Clarke County; or
  - 3. Violation of the Historic Preservation Commission Rules of Procedure or Bylaws.Vacancies caused by resignation or for other reasons shall be filled for the unexpired term in the same manner as for a full term.
- D. **Eligibility:** Members of the Historic Preservation Commission must be residents of Athens-Clarke County. In addition, a majority of the members shall have

demonstrated interest, experience, or education in history, architecture, or preservation of historic resources. Members may not be employed by the Unified Government of Athens-Clarke County. Members of the Historic Preservation Commission may not serve as elected officials of Athens-Clarke County.

- E. **Compensation:** All members will serve without compensation, but may be reimbursed for actual expenses incurred in the performance of their duties.

#### IV. Officers, Quorum and Affirmation of Motions

- A. **Officers:** At the voting meeting in June, officer nominations shall be made from the floor and election will occur by voice vote. New officers will take office on the first day of July following.
1. **Chair:** The Historic Preservation Commission shall elect one of its members as Chair, who will serve for one year or until a successor is elected. The Chair may be elected for no more than two consecutive, one-year terms. The Chair shall decide all points of order and procedure, unless directed otherwise by the majority of the Historic Preservation Commission, subject to these bylaws, Title 8 of the Code of Athens-Clarke County, and Webster's New World Robert's Rules of Order: Simplified and Applied, 2<sup>nd</sup> Edition<sup>1</sup>. The Chair shall appoint any committees found necessary to facilitate any business before the Historic Preservation Commission. The Chair shall have the authority to determine the need to call for a roll call vote when a voice vote is inconclusive.
  2. **Vice Chair:** The Historic Preservation Commission shall elect one of its members as Vice Chair, who will serve for one year or until a successor is elected. The Vice Chair may be elected for no more than two consecutive, one-year terms. The Vice Chair shall serve as Acting Chair of the Historic Preservation Commission in the absence of the Chair. Upon the resignation or disqualification of the Chair, the Vice Chair shall assume the position of Chair for the remainder of the unexpired term. Following the vacancy of the previous Vice Chair, the Historic Preservation Commission shall elect a new Vice Chair at its next regular meeting. Completion of an unexpired term as Chair by the Vice Chair shall not preclude the Historic Preservation Commission member from serving two consecutive and complete one-year terms as Chair.
  3. If neither the Chair nor the Vice Chair is present for a meeting, then the Historic Preservation Commission shall elect on the record at such meeting a member who is present to serve as temporary Acting Chair for that meeting only.
  4. **Secretary:** The Athens-Clarke County Planning Director or lawful designee shall serve as the Historic Preservation Commission's Secretary. The Secretary, at the direction of the Chair, shall prepare the agenda for each meeting and maintain the minutes of the meetings of the Historic Preservation Commission.

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<sup>1</sup> Robert McConnell Productions. *Webster's New World Roberts Rules of Order: Simplified and Applied, 2<sup>nd</sup> Edition.* New York: Hungry Minds, Inc., 2001  
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- B. **Quorum:** To constitute a quorum for the transaction of business, there shall be required to be present at any meeting of the Historic Preservation Commission at least four (4) members.
  
- C. **Decisions of the Historic Preservation Commission:** Decisions of the Historic Preservation Commission shall be by majority vote of the members present and voting, a quorum being present. In the event of a member’s abstention based on a conflict of interest or other disqualification, the abstention shall count as if that member were absent and the number of persons necessary for a majority shall be reduced accordingly without affecting the quorum. The decisions of the Historic Preservation Commission shall be for approval, approval with conditions, table or denial of an application. Reasons for denial by the Historic Preservation Commission of a Certificate of Appropriateness application shall be handled in the following manner. A motion to deny will be made by the Commission. The Chair will then complete a written denial form including the reasons for denial. The denial form will then be read into the record. The Commission will then vote on the denial. If the motion for denial carries, the written denial form will then be presented to the applicant at the meeting in which the decision is made.

**V. Bylaws and Rules of Procedure**

The membership of the Historic Preservation Commission shall adopt Rules of Procedure and By-laws, not in conflict with the provisions of Title 8 (Planning), Chapter 8-5 (Historic Preservation) of the Code of Athens-Clarke County. Notice of the intent to amend and the content of the amendment shall be distributed in writing to each member of the Historic Preservation Commission no less than three (3) days prior to the meeting at which the vote to amend is taken. A recommendation for adoption by the majority of the membership of the Historic Preservation Commission shall be required to amend or adopt the Rules of Procedure and the Bylaws. For instance, if all seven (7) Historic Preservation Commission positions are appointed and filled, four (4) votes are necessary to recommend the adoption or amendment of the Rules of Procedure or the Bylaws, regardless of the number of members present at the meeting. The Bylaws and Rules of Procedure recommended by the Historic Preservation Commission must be reviewed and approved by the Mayor and Commission pursuant to Section 8-5-2(e) of the Code of Athens-Clarke County.

**VI. Meetings**

Meetings of the Historic Preservation Commission shall be held at the call of the Chair and at such other times as the Historic Preservation Commission may determine. All meetings of the Historic Preservation Commission shall be open to the public. However, members of the public shall not address the Historic Preservation Commission until invited to do so by the Chair. Regular meetings of the Historic Preservation Commission shall be held monthly. Called meetings may be held, as needed, following provisions in the Bylaws Section: VI (B).

A. **The Regular Historic Preservation Commission Meeting**

Schedule is as follows, unless otherwise announced:

Date:	3 <sup>rd</sup> Wednesday of each Month
Time:	5:30 p.m.
Location:	Auditorium – Governmental Building 120 W. Dougherty Street

- B. **Special Called Meetings** may be held as needed by the Chair by giving notice to all members not less than forty-eight (48) hours prior to the time set for the meeting. The Clerk of Commission shall be notified of any Special Called Meetings at the same time as the members are notified and the Clerk shall notify the newspaper, which serves as the legal organ, not less than forty-eight (48) hours prior to the meeting time. A notice shall be placed in a public location at the meeting site indicating the time, date, location and Agenda for the Special Called Meeting. The public notice requirements shall adhere to those established in O.C.G.A. Section 50-14-1 et. Seq. Open Meetings Act.
- C. **Emergency Meetings** may be called by the Chair when special circumstances occur and are so declared by the Historic Preservation Commission. The first item of business at an Emergency Meeting shall be to establish special circumstances for the meeting. The Commission may hold a meeting with less than twenty-four (24) hours notice upon giving such notice of the meeting and subjects expected to be considered at the meeting as is reasonable under the circumstances, including notice to the newspaper serving as the legal organ or other newspaper. The Historic Preservation Commission shall immediately make the information available upon inquiry to any member of the public. Any oral notice required or permitted by this subsection may be given by telephone.
- D. **Cancellation of Meetings**
1. Whenever there is no business before the Historic Preservation Commission, the Chair may dispense with a regular meeting by giving notice to all members not less than twenty-four (24) hours prior to the time set for the meeting. The Clerk of Commission shall be notified of any cancellation of meetings at the same time as the members are notified, and the Clerk shall notify the newspaper, which serves as the legal organ, not less than twenty-four (24) hours prior to the meeting time. A notice shall be placed in a public location at the meeting site indicating that the meeting has been cancelled.
  2. Whenever the Athens-Clarke County Government has closed its offices due to inclement weather, then any meetings of the Historic Preservation Commission for that day shall be cancelled.
- E. **Adjourned Meetings:** Should the Historic Preservation Commission not complete the business before it, the Chair may adjourn the same and schedule a continuation of the same meeting until the Agenda has been completed. However, the adjourned meeting must meet the same requirements for the notification of the Clerk of Commission and for the posting of a notice as with a Special Called Meeting.
- F. **Committee Meetings and Work sessions:** Committee Meetings and Work sessions of the Historic Preservation Commission may be called by the Chair of the Historic Preservation Commission or, in the case of Committee Meetings, by the Chair of the Committee. These meetings, while informal in nature, shall be open to the public and shall meet the same requirements for notice to the Clerk of Commission and posting of the agenda or announcement of the meeting as for Special Called Meetings. Committees of the Historic Preservation Commission shall not conduct Administrative Hearings nor shall they occur at Historic Preservation Commission Work sessions. Minutes of Committee meetings are not required.

G. **Minutes and Agendas:**

1. **Minutes:** The Historic Preservation Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. Minutes shall also include records of the examinations of the Historic Preservation Commission and other official actions. Minutes shall be part of the public record. A recorded tape will serve as the official record of the meeting. These minutes shall, at a minimum, include the names of the members present at the meeting, a description of each motion or other proposal made, and a record of all votes. In the case of a roll-call vote, the name of each person voting for or against a proposal shall be recorded and in all other cases it shall be presumed that the action taken was approved by each person in attendance unless the minutes reflect the name of the persons voting against the proposal or abstaining. Copies of the recorded tape minutes are available to the public at the cost of duplication. Summary Minutes will be prepared by the Secretary of the Historic Preservation Commission and available to the public after adoption by the Historic Preservation Commission. The applicant or any other party to the proceedings may have a verbatim transcript prepared by the Planning Department at his or her own expense; provided, however, a copy of the transcript shall be filed with the Secretary of the Historic Preservation Commission and copies made available to other parties at actual cost. The costs of the transcript shall include the hours of Planning Department staff time used to prepare the transcript based on the hourly rate of the staff person who performs the task.
2. **Agenda:** The Secretary shall prepare the agenda for each meeting. The agenda shall be posted in a public location no less than twenty-four hours prior to the meeting. The Historic Preservation Commission shall receive copies of the agenda no less than twenty-four hours prior to the regularly scheduled meeting. The normal order of business at each meeting shall be:
  - a. Determination of Quorum
  - b. Election of Acting Chair, if necessary
  - c. Introduction of All Documents into the Official Record
  - d. Approval of Minutes of the Previous Meeting(s)
  - e. Consent Agenda
  - f. Old Business
  - g. New Business
  - h. Other Business
  - i. Adjournment
3. **Consent Agenda**
  - a. An item may be placed on a consent agenda if it is recommended for approval without conditions by the Staff.
  - b. The following procedure will generally be followed by the Historic Preservation Commission when considering consent agenda items:
    - i. Introduction of the consent item by the Chair.
    - ii. Public requests are received to remove an item from the consent agenda.

- iii. Any Commissioner may remove an item from the consent agenda.
- iv. An application pulled from the consent agenda will then be placed as the first item under new business on the agenda.
- v. After the removal of any item(s) from the consent agenda, the Chair may call for a motion to approve any remaining item(s) on the consent agenda.
- vi. Only one motion is required for all consent items. After being duly seconded, the consent agenda shall be voted on by the Commissioners.

## **VII. Conflict of Interest**

A member shall not cast a vote on any issue before the preservation commission which involves the interests of that member or an organization in which that member has an ownership interest or position of control or directly represents. Neither shall a member cast a vote on any matter, which could provide direct financial benefit to that member. Whenever a conflict of interest situation arises in the conduct of business the following actions shall be taken:

- A. The individual member shall divulge the existence and reasons for the potential conflict;
- B. The preservation commission shall decide if such a conflict exists;
- C. If it is decided that a conflict exists, the affected member shall refrain from presenting, voting on, or discussing the project, other than answering a direct question.
- D. Should the preservation commission determine that a conflict of interest does not exist, the nature of the alleged conflict and the reason(s) for determining a conflict did not exist shall be entered into the minutes.

## **VIII. Code of Ethics**

Each member of the Historic Preservation Commission shall adhere to the following code of ethics as contained in OCGA Section 45-10-3, which provides the Code of Ethics for members of Boards, Commissions, and Authorities created by general statute:

- A. Uphold the Constitution, laws, and regulations of the United States, the State of Georgia, and all governments therein and never be a party to their evasion;
- B. Never discriminate by the dispensing of special favors or privileges to any one, whether or not for remuneration;
- C. Not engage in any business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his or her governmental duties;
- D. Never use any information coming to him or her confidentially in the performance of governmental duties as a means for making private profit;
- E. Expose corruption wherever discovered;
- F. Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors, hospitality, or services from any person, association, or corporation under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the performance of the member's official duties;

- G. Never accept any economic opportunity under circumstances where he or she knows or should know that there is a substantial possibility that the opportunity is being afforded him or her with intent to influence his or her conduct in the performance of his or her official duties;
- H. Never engage in other conduct which is unbecoming to a member or which constitutes a breach of public trust; and
- I. Never take any official action with regard to any matter under circumstances in which he or she knows or should know that he or she has a direct or indirect monetary interest in the subject matter of such matter or in the outcome of such official action.

**IX. Historic Preservation Commission Policy Regarding Site Visits And Communications Received Outside of the Hearing or Decision-making Process**

- A. Members of the Historic Preservation Commission shall not decide how they will vote on a matter pending before the Historic Preservation Commission until after the conclusion of the evidentiary proceeding on the application.
- B. Historic Preservation Commission Members shall avoid the appearance of premature decision-making by adhering to the following rules of conduct.
- C. Historic Preservation Commission Members shall disclose any discussion outside the hearing or decision-making process with anyone other than staff or other Historic Preservation Commission Members, on the record, at the Historic Preservation Commission meeting at which the subject application is under review. Such disclosure shall include the name of the person with whom the matter was discussed and the nature of the conversation.
- D. If by virtue of a site visit or otherwise, a Historic Preservation Commission Member obtains what he or she considers to be pertinent information concerning a matter under review and such information is not presented at the hearing or meeting on the matter, such Historic Preservation Commission Member shall disclose said information on the record, at the hearing or Historic Preservation Commission meeting, and all parties present shall be given a chance to respond.

**X. Rules of Procedure**

- A. **Historic Preservation Commission Meeting:** The following rules of procedure will be followed regarding items before the Historic Preservation Commission.
  1. Athens-Clarke County staff will present their report and recommendations on each request.
  2. Public Input will be received from the petitioner and any other individuals or groups that wish to speak in favor of a request.
  3. Public Input is then received from anyone who wishes to speak in opposition of a request.
  4. Statements in opposition to the request may be followed, if necessary, by a brief response from the Petitioner.
  5. The Public Input Session will close and no additional public comments will be accepted, unless requested by the Historic Preservation Commission.

6. The Historic Preservation Commission will discuss the request. At the discretion of the Chair, Historic Preservation Commissioner's may ask for further information from members of the public who spoke during the Public Input Session.
7. The Historic Preservation Commission will then entertain a motion and take a vote on the request.
8. Motions can be for approval, approval with conditions, deny or for mutual agreement to extend the time period for the request.
9. A Sign-In Sheet for those in attendance will be prepared for the meeting and an announcement requesting that those present add their name and address to the sheet will be made at the opening of the meeting.
10. Any person speaking to the Historic Preservation Commission shall be asked to provide their Name and Home Address. Speakers shall address all comments to the Historic Preservation Commission and not to other members of the audience. The following time limits for speakers shall be observed:
  - a. The Petitioner or one representative – no more than ten (10) minutes.
  - b. Any individual who wishes to speak for or against a petition or issue shall have three (3) minutes to address the Historic Preservation Commission.
  - c. The petitioner will be allowed to clarify any issues during public comment and shall have a minimum of two (2) minutes to do so.

**B. Certificates of Appropriateness**

1. **Application:** Each application for a Certificate of Appropriateness shall be made on an official application form and shall be filed at the offices of the Athens-Clarke County Planning Department.
2. **Action on Applications**
  - a. **Period for Decisions:** The Historic Preservation Commission shall approve or reject an application for a certificate of appropriateness within 45 days after the application is submitted and accepted as complete by the Secretary of the Historic Preservation Commission. The Secretary shall have the authority to reject an application if it is determined to be incomplete.
  - b. **Failure to Act:** Failure of the Historic Preservation Commission to act within the 45-day period shall constitute approval, and no other evidence of approval shall be needed, unless mutual agreement between the Commission and the applicant for an extension of the 45-day time period per Section B(2)5 below.
  - c. **Proper Documentation Required:** Proper documentation shall include all information stated on the application form as developed by the Planning Staff.
  - d. **Evidence of Approval:** A certificate of appropriateness issued by the Board shall demonstrate evidence of approval.
  - e. The staff shall maintain a database, which shall be kept posted to date. The staff shall enter the number of the application, name of



the applicant, street number of the premises, date and final disposition of the case by the Historic Preservation Commission.

3. **Case Numbers:** Applications, including continued applications, filed in proper form shall be assigned case numbers and placed on the agenda of the Historic Preservation Commission. Incomplete applications shall not receive a case number until all information has been received.
4. **Deadlines:** Complete applications must be submitted at least 30 days, but not more than 45 days, prior to a regular monthly meeting in order to be assigned to that meeting. Applications shall not be accepted less than 30 days or more than 45 days prior to a regular monthly meeting unless the applicant agrees in writing to waive the 45-day time limit for Historic Preservation Commission action on the application or the application is submitted for Staff review under Section X.D. of these Rules of Procedure.
5. **Tabling the Application:** The Historic Preservation Commission can extend the 45-day time period for taking action on a certificate of appropriateness by mutual written agreement between the applicant and Commission. This written agreement shall become part of the permanent file.

C. **Advertising:**

1. Demolition and Relocation: As per section 8-5-6 (c) Consideration of pre-demolition and pre-location plans.
2. Designation: As per section 8-5-3 (d) Procedure for designation of historic districts and landmarks.

D. **Staff Issuance of Certificate of Appropriateness:**

For all historic districts and landmarks, except the Downtown Historic District and landmarks therein, the Historic Preservation Commission staff of the Athens-Clarke County Planning Department may approve the application as authorized within the applicable design guidelines. For the Downtown Historic District and landmarks therein, the Historic Preservation Commission staff may approve the following types of application for a Certificate of Appropriateness.

1. **Reroofing Materials:** Staff may issue a Certificate of Appropriateness for reroofing materials provided that no other significant alterations, i.e. removal of architectural features, dormers, chimneys, are proposed. Proposed replacement materials must be similar to existing materials.
2. **Backyard Fence:** Staff may issue a Certificate of Appropriateness for the construction of backyard fences provided that 1) the property is not a corner lot and 2) the proposed fence is of the appropriate height and materials.
3. **Signs:** Staff may issue a Certificate of Appropriateness for the installation of signs within historic districts provided that they comply with the Athens-Clarke County Sign Ordinance.
4. **Alterations that return a building, site or structure to a historic appearance:** Later alterations may be removed or 'reversed' provided that

- a. There is unattested documentation or physical evidence of the resources historic appearance
  - b. The applicant is not reversing a historic alteration.
5. **Minor Work:** Staff can approve minor work that meets the Design Guidelines and has little, to no impact on the historic district or adverse effect on a historic property. Examples include but are not limited to the following:
- a. Alterations to existing accessory structures;
  - b. Additions to existing accessory structures;
  - c. Removal of existing accessory structures or buildings which are not historic;
  - d. New backyard accessory structures not visible from the street (up to 144 sq. ft.);
  - e. Alteration/Addition/Removal of existing backyard decks not visible from the street;
  - f. Construction of new backyard decks not visible from the street;
  - g. Alteration/Addition/Removal of doors on secondary elevations;
  - h. Alteration/Addition/Removal of windows on secondary elevations;
  - i. Alteration/Replacement of existing windows that are documented to be beyond repair;
  - j. Addition of storm doors and windows (wood only);
  - k. Alteration/Addition/Removal of existing residential driveways and parking areas;
  - l. Construction of new residential driveways and parking areas;
  - m. Construction of new fences, retaining walls, hedges or other screen plantings;
  - n. Removal of non-historic fences, walls, hedges or other screen plantings;
  - o. Alteration of exposed foundation elements;
  - p. Installation/Addition/Removal of gutters and downspouts (except built-in box gutters);
  - q. Alteration/Addition/Removal of non-historic gardens, retaining walls, planting beds, or shrubbery;
  - r. Alteration/Addition/Removal of mechanical equipment (HVAC, for example);
  - s. Alteration/Addition/Removal of patios in the side or rear yards;
  - t. Alterations to existing porches, such as handrail installation;
  - u. Alteration of roof form to prevent damage to the property;
  - v. Alteration/Addition/Removal of exterior stairs, steps and walkways;
  - w. Construction of new stairs, steps and walkways;
  - x. Removal of non-historic ponds and swimming pools;
  - y. Installation/Alteration/Removal of temporary features that are necessary to ease difficulties associated with a medical condition;
  - z. Installation/Alteration/Removal of vents and ventilation systems;
  - aa. Modifications to plans previously approved under a COA
  - bb. Emergency installation of temporary features to protect the historic resource (that do not permanently alter the resource): for a duration

of no more than 6 months, to be removed or approved by the Historic Preservation Commission within 6 months.

cc. Modifications necessary to meet Building Code.

Staff may approve, approve with conditions or deny an application for a Certificate of Appropriateness for the above-mentioned requests. Staff is not required to grant this review and, at staff's discretion, may opt for review by the Historic Preservation Commission. If the petitioner wishes to appeal staff's decision, a complete application for the project will then be placed on the Historic Preservation Commission's agenda.

- E. **Resubmittal After Denial:** For one year following the issuance of a denial by the Historic Preservation Commission, the secretary may refuse to place a previously denied application for a Certificate of Appropriateness on the Historic Preservation Commission's agenda without the benefit of a public hearing, if the application meets one or both of the following criteria. (1) There is no change in the application for a Certificate of Appropriateness or (2) There is no significant material change in the property under consideration.
- F. **Appeals:** Handled pursuant to Section 8-5-5 (o) of the Code of Athens-Clarke County.
- G. **Conceptual Review:** Applicants may request a Conceptual Preliminary Design Review. Comments and recommendations from staff and the Historic Preservation Commission during a Conceptual Preliminary Design Review are non-binding, first-impressions to assist the applicant in further refining the project prior to making application for approval of a Certificate of Appropriateness. A Conceptual Preliminary Design Review is not an application for a Certificate of Appropriateness and the 45-day action requirement for Certificates of Appropriateness shall not apply. No final decisions shall be made by the Historic Preservation Commission. The applicant shall acknowledge that all comments and recommendations received through this review are based on conceptual designs and limited information and are subject to change upon further reflection and additional information submitted when a separate Certificate of Appropriateness application is filed.

Adopted this 6th day of December, 2011.

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Historic Preservation Commission Chair

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Date