

**THE RULES OF PROCEDURE AND REGULATIONS OF
THE CITY OF FREDERICK'S
HISTORIC PRESERVATION COMMISSION**

INTRODUCTION

Pursuant to Maryland Code Ann. Land Use §8-101 et seq. and the Charter and Code of The City of Frederick, the City of Frederick's Historic Preservation Commission ("Commission") hereby adopts these Rules of Procedure and Regulations ("Rules") to govern the transaction of its business, thereby regulating and ensuring the orderly, efficient, and proper exercise of its powers.

SECTION 1. OFFICERS, COMMITTEES, AND DELEGATION OF AUTHORITY

- 1.1 **Election.** The Commission shall elect a chairman and a vice-chairman each July. In the event of a vacancy in either office, the Commission shall elect a replacement officer as soon as practical.
- 1.2 **Presiding Officer.** The chairman, or in the absence of the chairman the vice-chairman, shall preside at all meetings of the Commission. In the absence of the chairman and the vice-chairman, the presiding officer will be determined by an ad hoc consensus of the present commissioners. The presiding officer shall decide all points of order not stipulated by these Rules or the Commission's enabling legislation.
- 1.3 **Alternate.** The alternate commissioner is subject to all the requirements set forth herein and, except for voting restrictions, has the same rights and responsibilities of the other commissioners.
- 1.4 **Committees.** The chairman may appoint committees for special purposes or study. The committee chairman does not have to be a commissioner, although a committee must include at least one commissioner. The committee chairman or planning department staff ("Staff") may convene meetings of special committees.
- 1.5 **Delegation of Authority.** The Commission may delegate authority to the Staff or Architectural Consultant(s) as outlined in the Administrative Approval Guidelines.

SECTION 2. COMMISSIONER RESPONSIBILITIES

- 2.1 **Attendance.** Commissioners shall attend all Commission meetings, including workshops and special meetings. Should any commissioner be absent from more than one quarter of all the meetings in any six month period, the Commission may recommend to the Mayor and Board of Aldermen that the commissioner's resignation be requested.
- 2.2 **Ethics.** Commissioners must at all times act in accordance with the City's Ethics Law, as set forth in Chapter 21 of the Frederick City Code. Commissioners are urged to consult with the City Attorney or a member of the Ethics Commission if they need assistance to determine whether a potential ethics violation exists.
- 2.3 **Conduct During Meetings.** Commissioners shall conduct themselves at Commission meetings in a fair, understanding, kind, and gracious manner. They shall seek to be considerate of all individuals, attitudes, and differences of opinion involved in official Commission business. Where not inconsistent with the City's Ethics Law, commissioners should act in a manner consistent with the "Code of Ethics for

Commissioners and Staff,” adopted by the National Alliance of Preservation Commissions.

- 2.4 **Conflict of Interest.** Any commissioner who has a conflict of interest with regard to a particular matter before the Commission shall recuse themselves from the discussion of the matter and from voting on that matter and must leave the room during such discussion and vote.
- 2.5 **Gifts.** Commissioners may not accept gifts, gratuities, or compensation from any person, organization, or entity involved in matters before the Commission in violation of the City’s Ethics Law as set forth in Chapter 21 of the Frederick City Code.
- 2.6 **Representative Statements.** A commissioner may not speak for the Commission except as authorized by a majority vote of the Commission during a public meeting. In any public or private statement concerning Commission affairs, commissioners will carefully indicate whether they are speaking for themselves or for the Commission.
- 2.7 **Ex Parte Communications Prohibited.** An ex parte communication is any oral or written communication not on the public record to which reasonable prior notice to all parties was not given. Such communication between commissioners and interested persons is prohibited if relevant to the merits of a Commission proceeding. Commissioners should not discuss applications with applicants or other interested persons outside the confines of a public meeting, but should recommend that the person(s) contact Staff with any questions or concerns.
- 2.8 **Disclosure of Ex Parte Communications.** If a commissioner does inadvertently engage in an ex parte communication, the commissioner should (at the next meeting in which the relevant application is to be discussed) state the nature of the communication and submit for the record any written communication received as well as any written response to that communication, state the substance of each oral communication received and state the substance of any oral response to a communication. Alternatively, the commissioner may recuse themselves in the same manner as if they had a conflict of interest.
- 2.9 **Presentation of Applications.** Commissioners may present their own application to the Commission for review. Commissioners are urged to consult the City Attorney or the Ethics Commission for advice on the propriety of presenting applications.
- 2.10 **Training.** In each month that has five Thursdays, on the fifth Thursday thereof, a special meeting may be called for purposes of training. Commissioners should make every effort to attend these training sessions. Additional training sessions may be required each year as well, in accordance with Federal and/or State regulations. Failure to comply with training requirements as required by State and/or Federal regulations may be cause for the Commission to recommend to the Mayor and Board of Aldermen that the commissioner’s resignation be requested. In general, staff will call meetings in consultation with the Chairman.

SECTION 3. APPLICATION PROCESS

- 3.1 **Procedure.** In preparing and submitting applications, applicants must follow the procedures on file in the Planning Department.
- 3.2 **Scheduling.** No application will be scheduled for review by the Commission until it is deemed technically sufficient by Staff, and all other requirements (including but not limited to payment of applicable fees) have been met. A technically sufficient application does not preclude the Commission from requesting additional information when deemed necessary.
- 3.3 **Technically Complete.** For the purposes of this section, an application will be considered technically complete under Md. Code Ann. Land Use §8-307 when the Public Notice Sign Posting Verification Affidavit is signed by the owner or their authorized agent. Applications that are eligible for Administrative Approval will be deemed technically complete when the Preliminary Certificate of Approval is signed by the owner or their authorized agent.
- 3.4 **Withdrawal.** A request to withdraw an application must be in writing and submitted to Staff prior to a scheduled hearing. A request to withdraw an application may also be made in person by an applicant or their authorized agent at a meeting.
- 3.5 **Resubmission.** An applicant may not submit an application that is deemed by staff to be the same or substantially similar to a denied application within one year of the Commission's decision to deny.

SECTION 4. MEETINGS

- 4.1 **Meetings.** The Commission holds two kinds of formal public meetings: hearings and workshops.
- 4.2 **Hearings.** Regular hearings of the Commission will be held at 6:00 p.m. on the second and fourth Thursday of each month. Should there be a need to continue a hearing or for an additional hearing, the time and date of the next hearing will be announced at the regular meeting and no additional notices shall be required. A schedule of Commission meetings is on file with the Planning Department. Should inclement weather or any other unforeseen event necessitate a change of meeting date or time, Staff will provide notice of the change to each commissioner by telephone or email or in person, and to the public via public access television or by posting on the City's website and, if known, the date and time of the next meeting.
- 4.3 **Workshops.** Workshop meetings, if necessary, will be held on the same nights as hearings after the hearing is concluded. It is expected that projects involving additions, new construction, or demolition will be required to attend a workshop before proceeding to a regular hearing. Applicants may request a workshop meeting. Staff, in consultation with the Chair, will determine a workshop agenda.

The Commission may continue a case to a future hearing and schedule an intervening workshop meeting to discuss an application in more detail.

- 4.4 **Special Meetings.** The chairman, or in the chairman's absence the vice-chairman, may call a special meeting. Staff shall notify each commissioner of the time and date of the special meeting by telephone at least 48 hours before the meeting. Staff shall notify the public via public access television or by posting on the City's website of the date and time of the special meeting.
- 4.5 **Open Meetings Act.** All Commission meetings will be held in accordance with the requirements of the Maryland Open Meetings Act and will be public meetings, except when permitted to be closed by the Act.
- 4.6 **Record.** The Staff shall keep a true and accurate record of all Commission proceedings. A recording may be accepted as the official record until the minutes are prepared and approved by the Commission. The minutes shall be typed and distributed to the commissioners and, once approved by the Commission, will become the official record. The approved minutes will be available for public inspection at the Planning Department during normal business hours.
- 4.7 **Closed Meetings.** The Commission may, from time to time, in accordance with the Maryland Open Meetings Act, hold a closed meeting.
- 4.8 **Agenda.** The order of business shall be in accordance with the agenda prepared by the planning staff in consultation with the chairman. The order of the agenda may be amended at the meeting by an affirmative vote of a majority of the Commissioners present.
- 4.9 **Consent Agenda.** All matters included on the consent agenda are considered to be routine by the Commission. They will be acted upon by one motion without separate discussion of each item. Any Commission commissioner, city staff member or any person present at the hearing may request that a matter be removed from the consent agenda. Any item(s) removed from the consent agenda will be heard first on the regular hearing agenda based on case number.
- 4.10 **Applicant presentation and public testimony.** The chairman or other presiding officer shall administer the following oath to all witnesses testifying in any matter coming before the Commission:

"Do you solemnly swear or affirm that the responses given and statements made in this hearing before the Historic Preservation Commission will be the whole truth and nothing but the truth? If so, answer "I do."

The presiding officer may administer the oath en masse at the outset of the hearing, as outlined in Rule 4.11, to all prospective witnesses intending to testify that evening. Before giving testimony, each witness shall appropriately identify themselves including an address if so required by the chairman. Before giving testimony, any witness not previously sworn at the hearing shall so state and the presiding officer shall administer the oath. Any person refusing to be sworn will not be permitted to testify.

4.11 Order of Hearing. The suggested order of a regular hearing is as follows:

- (1) Call to order;
- (2) En masse swearing in of all persons testifying
- (3) Statement of purpose and statement of eligibility to vote;
- (4) Summary of ex parte communications and conflicts of interest, if any;
- (5) Announcements;
- (6) Approval of meeting minutes;
- (7) Administrative approval report;
- (8) Violations and Code Enforcement Report;
- (9) Vote on consent agenda;
- (10) Presentation of Applications;
- (11) Items added to Agenda;
- (12) Administrative business;
- (12) Commission business;
- (14) Citizen comments;
- (15) Adjournment.

4.12 Order of Workshops. The order of workshop meetings is as follows:

- (1) Call to order;
- (2) Presentation and discussion of workshop cases;
- (3) Commission discussion of business including, but not limited to, guidelines and training.

4.13 Presentation of Applications. Each application at a regular meeting generally will be heard as follows:

- (1) Introduction of case by presiding officer;
- (2) Case Presentation, initial staff recommendation, and questions by Commission;
- (3) Presentation of case by applicant or authorized agent;
- (4) Commission questioning of applicant or authorized agent;
- (5) Public comment;
- (6) Applicant or authorized agent rebuttal, if any;
- (7) Commission discussion and questions for staff;
- (8) Restatement of staff recommendations
- (9) Commission action.

Time allocation for each category of testimony before the Commission shall generally be as follows:

Applicant initial presentation	15 minutes
Applicant rebuttal presentation	10 minutes
Individual public testimony	3 minutes
Group public testimony	10 minutes

Extensions of time for testimony may be granted by the presiding officer.

4.14 Attendance by Applicants. The applicant or the applicant's authorized agent must appear at all meetings at which said application is scheduled to be considered. In the absence of any personal appearance on behalf of the applicant or applicant's agent, the

Commission will continue the application until the next regularly scheduled meeting subject to Rule 5.6. This requirement applies to all agenda items including consent agenda items. Absence by the Applicant serves to toll the forty-five day time limit contained in Md. Code Ann. Land Use §8-307.

- 4.15 **Additional Information.** The Commission may require the applicant to provide additional information or material including but not limited to maps, charts, reports, studies or other documentation in order to reach a decision and may continue a case to a specific date and time in order to receive and review the required information.
- 4.16 **Public Participation.** Members of the public are invited to listen, observe and participate in all open meetings. The Commission will invite public testimony, questions, comments, or other forms of public participation at all open meetings. The Commission may establish reasonable time limits and registration requirements for speakers at meetings so that all may have an opportunity to be heard. The chairman may appoint a timekeeper to monitor time limits. The same time limits apply here as in section 4.13.

SECTION 5. VOTING

- 5.1 **Quorum.** A quorum for each application is a majority of appointed commissioners or one alternate and enough appointed commissioners to equal a majority of appointed commissioners. No decision may be made in absence of a quorum. In the event the Commission lacks a quorum for any case that case shall be rescheduled until a specific announced date and time. In the event of the loss of a quorum during a case, the case being heard will be rescheduled until later in the meeting or until the next regulatory scheduled meeting at which a quorum will exist.
- 5.2 **Alternate.** An alternate commissioner if eligible to vote pursuant to the requirements of these Rules, may vote, and is expected to vote, if a regular commissioner is absent, recused or is otherwise ineligible to vote. For the purposes of this rule, the term "absent" includes an unfilled vacancy of one of the commissioner positions. (Frederick City Code 2-34 establishes that the Commission shall be made up of at least five and no more than seven commissioners. It is the intent of this rule that a vacancy shall be deemed to exist at any time there are less than seven active commissioners unless the Mayor makes a specific written acknowledgement that the Commission shall consist of less than seven active commissioners)
- 5.3 **Presiding Officer.** The presiding officer may make motions and vote on all items.
- 5.4 **Eligibility.** In order to be eligible to vote on an application, a commissioner must have made the required site visit and attended any and all meeting(s) at which such application was discussed. In the event that a commissioner is absent from any such meeting, the commissioner may satisfy the attendance requirement by reviewing the record of that meeting.
- 5.5 **Voting.** The Commission may take the following actions on applications: (a) Approve, (b) Approve with Conditions (c) Deny or (d) Continue. Questions put to a vote are decided by a majority of the commissioners present and voting. A tie vote will be interpreted as a defeat of the motion upon which the vote was taken. Commissioners' votes will be recorded by hand or voice on each motion. Unanimous decisions will be

recorded as such in the minutes. If the decision is not unanimous, the minutes will record the vote or abstention of each commissioner.

- 5.6** **Continuances.** Cases shall be continued if the Applicant fails to appear at a hearing as prescribed in Section 4.14. If an application is continued because the Applicant has failed to appear as prescribed in Rule 4.14 for three successive hearings, the application will be deemed to be withdrawn and no further action will be taken by the Commission.

An applicant or agent may request a continuance to the next meeting or other specified meeting by appearing at the originally scheduled meeting and making such request orally on the record or by submitting a written request before the hearing. The Commission shall act upon the request at the hearing.

Continuances for either of the above reasons shall serve to toll the applicable forty-five day time limit contained in Md. Code Ann. Land Use §8-307.

- 5.7** **Motion for Reconsideration.** The Planning Director or the Applicant may petition the Commission for reconsideration of the final action by the Commission within ten (10) days of the date of mailing of the written final disposition. Petitions for reconsideration shall be in writing, and shall be filed with the Planning Department. The Chairman may waive the filing deadline for good cause shown. The written petition for reconsideration should state fully the reasons for seeking the reconsideration and state whether the reason is based on mistake, inadvertence, surprise, or fraud, or other good cause. These reconsideration provisions do not apply to non-regulatory matters. Failure to comply with this requirement may result in rejection, at the Chairman's discretion, of the request for reconsideration.

Decision to Reconsider: Petitions for reconsideration will be brought before the Commission at the next public meeting. A motion to reconsider may be made only by a commissioner who voted in the majority of the decision that is subject to the petition for reconsideration. A decision to reconsider (a) does not require notice to the public or parties of record in any manner other than by publication on the Commission agenda, (b) may be taken without the appearance or testimony of the parties, and (c) is properly before the Commission based only on the written petition presented according to this Rule. If the Commission votes to reconsider, the final action to be reconsidered shall become null and void.

Notice of Public Hearing on Matters Reconsidered. After a decision by the Commission to reconsider its decision, the Chairman will promptly schedule a public hearing to be held in accordance with the procedures in Land Management Code and the Commission schedule.

The filing of a petition for reconsideration does not toll any appeals' deadlines.

SECTION 6. COMMISSION DECISIONS

- 6.1** **Certificate Filed.** The Commission or Staff shall file with the City's Permits office a certificate of the Commission's approval, modification, or rejection of any application or plan submitted to the Commission for review.

- 6.2 **Issuance of Permit.** The City may not issue a permit for rehabilitation, demolition or new construction of a site or structure in the any historic district overlay until the Permits Office has received a certificate of approval.
- 6.3 **Commencement of Work.** An applicant may not begin work on any project submitted for review by the Commission until the certificate of approval has been filed with the Permits Office and the permit has been issued to the applicant.

SECTION 7. SUSPENSION AND AMENDMENT

- 7.1 **Suspension of Rules.** Any provision of these rules not governed by The City Charter or The City Code may be temporarily suspended by a motion and an affirmative vote of a majority of the commissioners present. The vote of any such suspension shall be taken and entered upon the record.
- 7.2 **Amendment of Rules.** These rules may be amended, or new rules adopted, by a majority vote of all commissioners of the Commission, provided that the proposed amendment or new rules shall have been introduced into the record at a prior Commission meeting.

**APPROVED AND ADOPTED BY THE HISTORIC PRESERVATION COMMISSION
THIS 27th DAY OF AUGUST 2015.**



Scott Winnette, Chairman

APPENDICES

- A. Annotated Code of Maryland, Land Use 8-101 et seq.
- B. City of Frederick Land Management Code Sec. 423 as amended.
- C. The Code of the City of Frederick, Sec. 2-34 -2-42, Sec. 21-3 -21-7
- D. Administrative Approval Guidelines
- E. Secretary of the Interior's Standards for Rehabilitation
- F. NAPC Code of Ethics for Commissioners and Staff
- G. Definitions