METROPOLITAN HISTORIC ZONING COMMISSION
RULES OF ORDER AND PROCEDURE
Revised July 20, 2016

I. PURPOSE & AUTHORITY

To establish procedures under which the Historic Zoning Commission, hereinafter referred to as the Commission, shall execute those duties and functions authorized in Sections 13.7.401-410 of the Tennessee Code Annotated and set forth in Metropolitan Code of Laws (M.C.L.) Chapters 17.36 and 17.40, regarding the preservation and protection of historic properties.

II. ADDRESS

A. The principal office address of the Commission shall be the office of the Metropolitan Historical Commission, and the official records of the Commission shall be kept there.

III. MEMBERS, OFFICERS AND DUTIES

A. Chairman. A chairman shall be elected-every other year by the members of the Commission for a two-year term and shall be eligible for re-election. The chairman shall decide all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Commission in session at the time. The chairman shall appoint any committees found necessary to investigate any matters before the Commission and shall advise the staff on routine administrative matters.

B. Vice Chairman. A vice-chairman shall be elected every other year for a two-year term in the same manner as the chairman and shall be eligible for re-election. He/she shall serve as acting chairman in the absence of the chairman, and at such times he/she shall have the same powers and duties as the chairman.

C. Elections. Election of officers shall be in June and the terms of officers shall begin upon election.

D. Manner of Voting. The voting on all questions coming before the Commission shall be entered into the minutes reflecting the ayes and noes unless it is unanimous. At least five members of the Commission shall constitute a quorum for the transaction of its business. The concurring vote of four members of the Commission shall constitute final action of the Commission on any matter before it. The Chair shall vote in the case of a tie or if the requisite four concurring votes have not been met.

E. Conduct. Commission members shall not discuss an application with any parties prior to the Commission's deliberations on such application, except

as specified elsewhere or as authorized in advance by the Chairman; provided, however, that members may seek and/or receive information pertaining to the application from its staff prior to the hearing.

F. Continuing Education. Each commissioner shall, within one (1) year of initial appointment and each calendar year thereafter, attend a minimum of three (3) hours of training and continuing education specific to design review parliamentary and public hearing procedure, historic zoning law, and design review procedures. Any training not provided by the National Alliance of Preservation Commissions, the National Trust for Historic Preservation, the State Historic Preservation Office or staff of the Metro Historic Zoning Commission must be approved by the State Historic Preservation Office.

IV. ETHICAL STANDARDS

A. Members shall conduct themselves in accordance with the "Ethical Standards" of ethical conduct established in the Metropolitan Code, Section 2.72222, et seq.

B. Conflict of Interest. Any member who has a *financial* interest in any property that is the subject matter of a decision of the Commission is disqualified from participating in the discussion, decision, and/or proceedings of the Commission in connection with that property. The Commission member shall disclose the interest prior to any hearing on the matter.

V. STAFF

A. Staff functions shall be performed by members of the Metropolitan Historic Zoning Commission staff, one of whom shall be named as zoning administrator of the Commission by the Executive Director of the Metropolitan Historical Commission.

B. The zoning administrator and staff shall prepare agendas and minutes, provide comments or recommendations regarding applications before the Commission, and perform other administrative activities as may be necessary or directed by the Commission.

VI. MEETINGS

A. Regular. Regular meetings shall be the third Wednesday of every month at 2:00 p.m. at the office of the Metropolitan Historical Commission unless otherwise announced.

B. Called. Special meetings may be called as necessary.
   1. To consider applications regarding designation of districts and landmarks;
   2. To consider applications for preservation permits for work within districts or to landmark properties;

3. On the request of a majority of the Commission members; or in the chairman's discretion.

C. Work Sessions. The Chairperson may also from time to time schedule informal work sessions at which information is provided by MHZC staff to the members about upcoming items to be considered by the Commission or general items of interest to the Commission. It is not necessary for a quorum of the Commission to be present and no business shall be conducted at any such work session.

D. Cancellation. Whenever there is no business for the Commission, the zoning administrator may dispense with a regular meeting by giving notice to all members and the public not less than 24 hours prior to the time set for the meeting.

E. Conduct of meetings. All meetings shall be open to the public. The Commission may request combined presentations or establish alternative time limits, considering the time constraints of the meeting and the complexity of the issue. The order of business at regular meetings shall be as follows:

1. Call to order
2. Roll call, noting presence of quorum
3. Correction and approval of minutes
4. Consent Agenda
5. Hearing of new proposals, one at a time
   a. Staff presentation
   b. Applicant presentations and response to Commission (10 minutes. May reserve 2 minutes for rebuttal)
   c. Comments by members of the public (2 minutes for individuals. Up to 5 minutes for persons speaking on behalf of a group of individuals.)
   d. Applicant rebuttal (If time is reserved.)
   e. Commission discussion
   f. Motion; second; discuss; vote
6. Old business, including presentation of routine item preservation permits
7. Other
8. Adjourn

VII. CONSIDERATION OF DESIGNATION APPLICATIONS

A. Review Criteria for Designations.

The procedures for designation historic zoning districts and landmarks are:

1. Commission Review.
   a. The Commission may require any or all of the following before determining its recommendation regarding designation.
      1) A statement from the applicant indicating goals, concerns, and expected benefits of designation;
      2) A Map showing district boundaries;
      3) An architectural inventory including photographs and slides of the properties to be designated;
      4) A set of proposed design guidelines for the district.
   b. The Commission shall provide written notice to property owners to be affected by the designation. The notice will address the public hearing, proposed designation and the proposed design guidelines.
   c. During its public hearing the Commission shall determine the appropriateness of the designation based on the review criteria in section VII.B. of this document and shall adopt design guidelines for the district or landmark proposed for designation.
   d. The Commission shall forward a recommendation in favor of or against the designation to the MPC and Council.
2. Documentation. Upon designation the Commission staff shall photograph every property in the district and create files for each property.

B. Review Criteria. In reviewing applications or proposals for designating historic zoning districts or landmarks the Commission shall take the following into account:

1. The criteria for qualification and historic and/or architectural significance as outlined in M.C.L. Section 17.36.120;
2. The extent of agreement on design guidelines for the district or landmark between the Commission and the neighborhood group, property owners, and others to be affected by the designation.

C. Review Process and Criteria for Designation of Historic Bed and Breakfast Homestay and Historic Home Events:

1. Historic Bed and Breakfast Homestays. The Commission will:
   a. Determine the property's eligibility based on the structure's historical significance, as defined at M.C.L. 17.04.060, upon receipt of application, including site and architectural plans.
   b. Provide a written recommendation on the same to the Board of Zoning Appeals.
   c. Determine whether proposed exterior changes to the property satisfy the applicable design review guidelines, following the procedures set forth for "Preservation Permits," below.
2. Historic Home Events.

a. The Commission will, upon receipt of an application, determine whether the structure is historically significant, as defined at M.C.L. Section 17.04.060.

3. Documentation. Upon designation the Commission staff shall photograph every property and create files for each property.

VIII. CONSIDERATON OF APPLICATIONS FOR PRESERVATION PERMITS

A. Review Procedures

1. Application. An application in the form adopted by the Commission must be completed and sufficient information provided by the applicant to adequately illustrate to the staff the scope, design, materials, and methods of work proposed to be undertaken.
2. Staff Review. Upon receipt of an application the staff shall review the proposed work and advise the applicant on the appropriateness and consistency with the applicable design guidelines.
3. Approval
   a. A preservation permit shall be evidence of Commission approval. It shall be issued to the applicant for transmittal to the Codes Department upon application for a building permit, when required.
   b. The staff shall issue preservation permits for applications for routine item work consistent with the applicable design guidelines without prior review by the Commission.
   c. Failure of the Commission to act within thirty days after receipt of a sufficient application shall be deemed an approval except when a mutual agreement has been made to extend the time limit.
   d. Approval may be granted with or without conditions attached.
4. Disapproval. Upon disapproval of an application the staff shall notify the applicant of such and the reasons for disapproving in writing.

B. Review Criteria. In reviewing applications for preservation permits the Commission shall take the following into account in determining the appropriateness of work.

1. The historic and architectural significance of the structure;
2. Impact of proposal on the property and surroundings;
3. The set of design guidelines adopted by the Commission for the property involved; and
4. The additional factors citied in M.C.L. 17.40.420.

C. Review Policies

1. Routine Item Review. The staff is authorized to review and approve work defined as routine items without prior review of the work by the Commission.

<u>Commission Review</u>

The types of applications that must be reviewed by a quorum of the Commission are as follows.

- Demolition of primary buildings (contributing)

- Demolition of historic outbuildings and appurtenances
- All new construction of primary buildings
- New construction of outbuildings (unless the project meets the requirements outlined in ordinance section17.16.030.F.)
- Rear additions (unless the project meets the requirements of administrative review)
- Side Additions (except for solar panels, skylights and dormers)
- Front Additions (except for non-contributing buildings and solar panels)
- All relocations of buildings
- Any project that requires a setback determination
- All other projects not listed under "administrative approval"
- Any project that does not conform to the design guidelines
- Any project listed under "administrative approval" that Staff has referred to the Commission

Administrative Review

The MHZC has delegated to staff the ability to administratively approve work defined as routine items without prior review of the work by the MHZC. The types of applications that may be administratively reviewed are as follows. The Commission Chair may extend this list in emergency situations to provide optimum customer service. Staff may, at any point during the review process and for any reason, choose to refer the application to the Commission.

- Demolition of non-historic accessory structures and appurtenances
- Demolition of any structure that has become a major life-safety hazard and is requested to be demolished by another Metro department for that reason
- Demolition of non-contributing primary buildings
- New construction of accessory structures which meet the design guidelines, the requirements outlined in ordinance section 17.16.030.F, and the bulk zoning requirements.
- Rear additions which are no wider and no taller than the primary building and no deeper than half the depth of the existing house.
- Front additions to non-contributing structures
- The addition of solar panels
- Side roof additions such as dormers and skylights
- Appurtenances
- Ridge Raises
- Repairs and replacement in-kind
- Signage
- Fences
- Permanent landscape features
- Painting of masonry and metal

2. Notification. The staff may use the following general criteria for notifying property owners who may be affected by proposed applications that require commission approval:

a. Applications that involve a setback determination shall require that the applicant send mailed notice to adjacent property owners, at least 7 days in advance of a scheduled hearing.

3. Time Limit on Decisions and Preservation Permits. In order for a preservation permit to remain valid work must begin within six months of issuance and be completed within two years of issuance. A permit must be issued within three months of the MHZC's decision for the decision to remain valid.

4. Applications shall not be considered "complete" ("includes sufficient data for review") as required by section 17.40.420 of the ordinance and thereby scheduled for a public hearing or reviewed administratively until staff has received all information necessary to fully understand and communicate about the project. Basic items required for applications shall be communicated to the public on the Preservation Permit application. The historic zoning administrator shall determine when an application is complete.

5. The applicant or his representatives may not provide new information at the public hearing. "New information" is information that is substantively inconsistent in any material respect with the application as submitted by the application deadline.

D. POST HEARING REQUESTS

Request for rehearing:

1. Any aggrieved party may, within sixty (60) days of the public hearing, in a case they participated in, request a rehearing.

2. No such request to grant a rehearing shall be considered unless new evidence is submitted which could not have reasonably been presented at the previous hearing. The request must be in writing and it must recite with specificity the new evidence and the reasons for the request. The request may be accompanied by plans or diagrams, if necessary. A request for a rehearing shall be acted upon by motion of a member of the Board who voted in the majority as to the disposition of the case.

3. The affirmative vote of four (4) members for the majority is necessary to grant a rehearing. Failure to obtain four (4) votes shall be deemed a denial.

4. If the request is denied, an appropriate order shall be prepared by the zoning administrator and sent to the parties making the request

5. If the request is granted, the case will be set for another public hearing.

E. Design Guidelines. The Commission will adopt a set of design guidelines for each prospective district or landmark. These guidelines are written by the Commission staff, or by a professional firm with proven relevant experience, with input from the neighborhood. The guidelines are to be posted online before a district or landmark is designated so that the owners may form their view of the designation with full knowledge of the standards that would be used to review future work.

F. Amendments of Guidelines. Amendments to design guidelines may be proposed to the Commission by affected property owners, neighborhood group, Commission staff, or by the Commission itself for review. Proposed amendments are to be posted online and property owners are then given the opportunity to discuss the proposed amendments at a public meeting prior to a vote on the amendments by the Commission.

G. Public Awareness and Education. The staff will conduct public awareness and educational workshops and meetings and publish educational materials as the need arises to facilitate effective administration of historic zoning.

IX. CONSIDERATION OF DEMOLITION

Ordinance No. BL2005-864 and T.C.A.7-51-120 provide that "no residential structure may be demolished, without Metropolitan Council approval, if it meets" certain criteria. In this case, "residential" shall mean the building's original or current, full or partial, use as a residence including accessory buildings or residential zoning.

X. ENFORCEMENT PROCEUDRES

In cases of non-compliance with historic zoning regulations and preservation permits the staff will follow these general steps as appropriate until compliance has been reached.

A. Request the Department of Codes Administration to post, a Stop Work Order if work is in progress;

B. Notify the owner of the violation in writing (through a notice mailed return receipt, hand-delivered, or if these methods are not feasible, advertised in a newspaper) with the opportunity for the owner to appeal the staff decision to the Commission within 30 days.

C. If an appeal is requested, submit application for review by the Commission, and follow regular review procedures.

D. If the matter remains unresolved, work with Codes Department to have citation issued.

XI. DEFINITIONS

A. Addition – the extension or increase in floor area or height of any structure.

B. Alteration – a change in building material; the addition or elimination of any architectural features.

C. Demolition – the tear down of part or all of any structure.

D. Design Guidelines – standards or criteria which the Commission must consider to determine the appropriateness of a proposal for work.

E. Preservation Permit – certificate of appropriateness as defined in MCL 17.04.060; a certificate issued by the Commission denoting approval.

F. Relocation – the moving of a building from one site to another.

G. Repair – the reconstruction or renewal of any part of an existing structure for the purpose of maintenance.

H. Routine item - emergency stabilization; minor work that is in accord with the Commission guidelines; replacement of work or damaged parts of a building with new parts that are like or superior to the old; work listed as requiring staff approval only in Commission-adopted chart "Metro Approvals Needed".

XII. AMENDMENTS

Rules of Order and Procedure may be amended at a regular or called meeting of the Commission but no amendment shall be adopted unless at least four days' written notice thereof has been previously given to all members of the Commission.

XIII. INTERPRETATION OF RULES.

The Commission is the final authority as to the meaning of these rules. From time to time, the Commission may make an exception to these rules for extraordinary cases, setting out the reasons therefore.

Adopted: _____ 07/20/16
Chairman Date

Filed with the Metropolitan Clerk:

_____ AUG - 4 2016
Metropolitan Clerks Office