



METROPOLITAN HISTORIC ZONING COMMISSION
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**METROPOLITAN HISTORIC ZONING COMMISSION
RULES OF ORDER AND PROCEDURE**

MAY 17, 2023

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 Tennessee Code Annotated (T.C.A.) § 13-7-401 through 410 and set forth in the Metropolitan Code of Laws (M.C.L.) § 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. **Chairperson.** A chairperson 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 chairperson 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 chairperson shall appoint any committees found necessary to investigate any matters before the Commission and shall advise the staff on routine administrative matters.

- B. **Vice Chairperson.** A vice-chairperson shall be elected every other year for a two-year term in the same manner as the chairperson and shall be eligible for re- election. He/she shall serve as acting chairperson in the absence of the chairperson, and at such times he/she shall have the same powers and duties as the chairperson.
- C. **Elections.** Election of officers shall be in June and the terms of officers shall begin upon election.
- D. **Removal of Members.** M.C.L. § 11.109 allows for any member to be removed from the office by a three-fourths (3/4) vote of the entire membership of Council. The Executive Director in agreement with the Chairperson of the Metro Historic Zoning Commission may recommend to Council the removal of a member if the member misses more than three consecutive meetings or 25% of the meetings in one year.
- E. **Manner of Voting.** The voting on all questions coming before the Commission shall be entered into the minutes reflecting the ayes and nays 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.
- F. **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 Chairperson; provided, however, that members may seek and/or receive information pertaining to the application from its staff prior to the hearing.
- G. **Continuing Education.** The Department shall offer a minimum of three (3) hours of training and continuing education each year with an

emphasis on design review, parliamentary and public hearing procedures, and historic zoning law.

Reference: M.C.L 17.40.400 and T.C.A. §13-7-403

IV. ETHICAL STANDARDS

- A. Members shall conduct themselves in accordance with the standards of ethical conduct established in the M.C.L. § 2.222, *et seq.*
- B. **Conflict of Interest.** Under the following circumstances a Commission member is deemed to have a conflict of interest such that member is disqualified from participating in the discussion, decision, and/or proceedings of the Commission in connection with that property:
 - 1. If any member, or any person in a member's immediate family, has a financial interest in any property that is the subject matter of a decision of the Commission.
 - 2. A member's participation would cause them to violate M.C.L. § 2.222.010 - .020 regarding standards of conduct.

If any commission member has such a conflict of interest, the member shall disclose the interest prior to any hearing in the matter and abstain from participation.

- C. **Ex Parte Communications.** The Commission's role in matters not subject to Council approval is quasi-judicial and binding. As such, members shall not have ex parte contact with anyone regarding these items if they are pending before the Commission; members may, however, discuss such matters with Commission staff. If inadvertent contact does occur on quasi-judicial matters, the member of the Commission shall report on that contact in full to the Commission prior to any action on the matter. Commission members are free to discuss any items with members of the Historic Zoning Commission staff.

V. STAFF

- A. **Historic Zoning Administrator.** Staff functions shall be performed by members of the Metropolitan Historical Commission staff, one of

whom shall be named as zoning administrator of the Commission by the Executive Director of the Metropolitan Historical Commission.

- B. **Staff Role.** In relation to the Historic Zoning Commission, the Historic Zoning Administrator and staff shall assist applicants with the preservation permit application process, prepare agendas and minutes, provide comments or recommendations to the MHZC regarding applications, issue approved permits or notices of decisions and provide continuing education opportunities to the commission.

VI. MEETINGS

- A. **Regular.** Regular meetings shall be the third Wednesday of every month at 2:00 p.m. at the Sonny West Conference Center, Howard School Complex, 700 Second Avenue South, unless otherwise announced.

Called. Special meetings may be called as necessary, including to consider applications regarding designation of historic overlays:

1. To consider applications for preservation permits for work within historic overlays properties;
2. On the request of a majority of the Commission members; or at the chairperson's discretion.

- B. **Work Sessions.** The Chairperson may also from time to time schedule informal work sessions at during which information may be provided by MHZC staff to the members about upcoming items to be considered by the Commission or items of general 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. Work sessions also can be called as special meetings, and business may be conducted at such publicly-noticed meetings if a quorum is present.
- C. **Open Public Meetings Act.** All sessions of every meeting of the Commission shall be open to the public pursuant to the Tennessee Open Public Meetings Act, T.C.A. § 8-44-101 et seq.

- D. **Public Notice and Minutes.** In compliance with M.C.L. §§ 2.24.146 and 2.68.020, the agenda for each meeting shall be sent to the Metro Information Technology Services Department (ITS) to be posted on the Commission website and Metro calendar. The agenda shall be sent in a timely manner so as to give adequate notice of the meeting. Minutes shall be taken of each meeting in accordance with T.C.A. § 8-44-104. After each meeting, minutes shall be submitted to ITS as soon as is practicable.
- E. **Site Visits.** Commissioners may independently visit the site of any case but should not discuss the project, outside of the public hearing. (See IV. C.) Commissioners who independently visit any site will disclose such at the public hearing. In certain circumstances, the Commission may elect to schedule tours of the interior (where applicable) of a particular case. In these instances:
1. Staff shall schedule tours, with the permission of the property owner, of only one commissioner at any one time;
 2. The applicant or his/her representative may attend to answer questions;
 3. Commissioners may ask questions about what they are viewing but shall not discuss the merits of the case or express any opinion during the site visit; and,
 4. Staff shall submit any notes of the visits as part of the public record.
- F. **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.
- G. **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. Correction and approval of minutes
3. Consent Agenda
4. 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 of public comment (If time is reserved.)
 - e. Commission discussion. During commission discussion the members may initiate clarifying questions directed at staff, applicants, and any other presenters as necessary to facilitate the commission's deliberations. Only commissioners may initiate such questions and any discussion shall be responsive to such questions. Such post-hearing questions and responses only will be considered part of the public hearing.
 - f. Motion; second; discuss; vote
5. New Business
6. Adjourn

H. **Deferrals.** For new applications, the applicant may request, and the Commission may grant, up to two deferrals.

1. Any request for a deferral after the second deferral shall be treated as a withdrawal.
2. For violations, the applicant may request, and the Commission may grant one deferral.
3. When an item is deferred after a public hearing, it is not necessary to notify persons who received the public hearing notice if the date for further consideration is established at that time. If the date for further consideration is not set at that time, the owners of properties first notified must be notified again. Items deferred prior to the public hearing will need to be noticed again.

VII. CONSIDERATION OF DESIGNATION APPLICATIONS

A. **Procedure for Designations.** The procedures for designation of historic overlays 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. Map showing boundaries;
3. An architectural inventory including of the properties to be designated;
4. A set of proposed design guidelines.

b. The Commission shall provide written notice to property owners in accordance with M.C.L §§ 2.24.146 and 2.68.020 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 historic overlay 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 structure in the historic overlay and create files for each property.

Reference: T.C.A. §13-7-405

- B. **Review Criteria.** In reviewing applications or proposals for designating historic zoning overlays 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. § 17.36.120; and,
 - 2. The extent to which the design guidelines are consistent with the National Park Service’s Secretary of Interior’s Standards for Rehabilitation.

- C. **Design Guidelines.** The Commission will adopt a set of design guidelines for each prospective district or landmark, as required by T. C. A. § 13-7-406. 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.

- D. **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.

VIII. CONSIDERATION OF APPLICATIONS FOR PRESERVATION PERMITS

- A. **Notice Requirements.** All applications that do not meet the qualifications for administrative permits require public notice (both letters and signs) 11 days prior to the MHZC public hearing as required by M.C.L. §§ 17.40.720 and § 17.40.730. These notices and proof of notice are the responsibility of the applicant.
 - 1. Letters shall be sent to property owners within 250’ of the subject property via US Mail providing the date, time, and place of the MHZC’s Public Hearing. For demolition of historic buildings, notice shall also be sent to the relevant neighborhood association

and councilmember.

2. Yard signs shall be posted one for every 50' of public road frontage excluding alleys, whenever practical, located within ten feet of the right of way and positioned in a manner to best inform the motoring public without creating a safety hazard. Signs should be double-sided 24" (vertical) x 36" (horizontal) signs with blue text on a white background. (Locations without an area to post a "yard sign" may be one sided.) Information should include address of project, date, time and location of meeting and contact information.
3. Applicant or representative shall submit an affidavit prior to the relevant public hearing, confirming that the notice requirement has been met.

B. Agenda.

1. Each month's agenda may be divided into a Review (draft) Agenda and a Final Agenda. The Review Agenda is to be posted online no later than the first Thursday after the application deadline, and the Final Agenda is to be posted no later than the Friday prior to the Commission meeting.
2. The Review Agenda will include all applications received by the application deadline, but prior to administrative review to determine completeness and prior to completion of notification requirements. Therefore, some projects listed on the Review Agenda may not be included in the Final Agenda.
3. The Final Agenda shall include information about all projects listed in the Review Agenda that were determined to be incomplete or did not meet notification requirements. Cases not listed in the Review Agenda should not be added to the Final Agenda.

C. Review Procedures.

1. **Application.** An application must be complete 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 disapproval in writing.

D. **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 cited in M.C.L. § 17.40.420.

E. **Review Policies.** The staff is authorized to review and approve work defined as routine items without prior review of the work by the Commission.

1. **Commission Review.** The types of applications that are not subject to administrative approval and therefore must be reviewed by a quorum of the Commission are as follows.
 - a. Demolition of primary buildings (contributing) (unless the project meets the requirements of administrative review)
 - b. Demolition of historic outbuildings and appurtenances (unless the project meets the requirements of administrative review)
 - c. All new construction of primary buildings
 - d. New construction of outbuildings (unless the project does not meet the requirements outlined in the Metropolitan Code of Laws and the design guidelines.)
 - e. Rear additions (unless the project meets the requirements of administrative review)
 - f. Side Additions (except for solar panels, skylights and dormers)
 - g. Front Additions (except for non-contributing buildings and solar panels)
 - h. All relocations of buildings
 - i. Any project that requires a setback determination from bulk standards, that has not already been determined by the design guidelines
 - j. All other projects not listed under “administrative approval”
 - k. Any project that does not conform to the design guidelines
 - l. Any project listed under “administrative approval” that Staff has referred to
the Commission

2. **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 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. The types of applications that may be administratively reviewed are as follows:

- a. Demolition of non-historic accessory structures and appurtenances
- b. Demolition of additions, appurtenances and non-character defining features
- c. Partial-demolition of historic siding where replacement meets the

design guidelines.

- d. 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
- e. Demolition of non-contributing primary buildings
- f. New construction of outbuildings and detached accessory dwelling units which meet the design guidelines and are at least 3' from the side property lines, 5' from the rear property line when a garage door faces the rear or 3' when there is no garage door facing the rear property line
- g. Rear additions, which are no wider and no taller than the primary building and no deeper than half the depth of the existing house.
- h. Front additions to non-contributing structures
- i. The addition of solar panels
- j. Side roof additions such as dormers and skylights
- k. Appurtenances
- l. Ridge Raises
- m. Repairs and replacement in-kind
- n. Signage
- o. Fences
- p. Permanent landscape features
- q. Painting of masonry and metal

4. **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.

5. **Demolition without a Permit.** Demolitions conducted without the requisite permits are prohibited and subject to penalties under the Metropolitan Code of Laws. When a historic building has been demolished without a permit, the Commission shall consider any new application request as if the historic building(s) remained.

6. **Complete Permit Applications.** Applications shall not be considered "complete" ("includes sufficient data for review") as required by M.C.L §

17.40.420 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 and notice requirements have been met. 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.

7. **New Information.** 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.

8. **Review of Permit Granted Through the Administrative Review Process.** Any aggrieved party may, within thirty days (30) of the notification to the commission of the issuance of an administratively issued permit, request review of the application by the Metro Historic Zoning Commission.

Reference: M.C.L. § 17.40.420 and T.C.A. § 13-7-407 to 409

F. Post Hearing Requests.

1. Any aggrieved party may, within sixty (60) days of the public hearing, in a case they participated in, request a rehearing. While decisions regarding preservation permit applications are appealable, recommendations of the commission to other boards or Council are not.

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.

IX. CONSIDERATION OF DEMOLITION PERMITS FOR PRE-1865 BUILDINGS NOT INCLUDED IN A HISTORIC OVERLAY

M.C.L. § 16.28.195 and T.C.A. § 7-51-1201 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. Under M.C.L. § 16.28.195, the Historic Zoning Commission determines if a structure individually, or as part of a group of structures, meets the criteria of T.C.A. § 7-51-1201. The determination of eligibility has been delegated to staff and the Metro Historic Zoning Commission provides a recommendation for Council regarding the demolition request.

X. CONSIDERATION OF RECOMMENDATIONS TO OTHER METROPOLITAN BOARDS AND COMMISSIONS

The MHZC delegates to staff the role of making recommendations to other Metropolitan boards and commissions for the following actions:

- A. **Historic Home Event Applications.** Staff shall determine whether or not a building qualifies as a “historically significant structure” pursuant to M.C.L. § 17.36.120(C) and relay that information to the Zoning Appeals Board.
- B. **Neighborhood Landmark Applications.** Staff shall determine whether or not a building qualifies as a “significant structure,” pursuant to M.C.L. §§ 17.36.420, 17.40.160(G), if the application does not also include an application for a Historic Landmark and relay that information to the Planning Commission.

XI. ENFORCEMENT PROCEDURES

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. **Stop Work Order.** Request the Department of Codes Administration to post a Stop Work Order if work is in progress.
- B. **Notice.** Notify the owner of the violation in writing through US mail, email or hand- delivery, and provide the opportunity for the owner to appear before the Commission on the issue of the violation within 30 days.
- C. **Show Cause Order.** If the violation remains and the matter is not brought into compliance, Staff shall cite the applicant to a court of competent jurisdiction or issue a Show Cause Order on behalf of the Commission.
- D. **Show Cause Hearing.** In cases where violations persist and a Show Cause Order has been issued, the applicant shall be required to appear before the Commission and show cause as to why any original Preservation Permits should not be revoked by the Commission.

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. REPEAL OF PREVIOUS RULES

Any other rules, procedures, or by-laws previously adopted by the Commission are repealed.

XIV. 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.