

**ATHENS-CLARKE COUNTY
PLANNING COMMISSION
BYLAWS and RULES OF PROCEDURE**

I. Powers and Duties

- A. The Powers and Duties of the Athens-Clarke County Planning Commission (hereafter referred to as the “Planning Commission” are established in Section 8-1-3 and Section 9-4 and other appropriate sections of Code of Athens-Clarke County.
- B. The Planning Commission shall follow in the consideration of zoning and planning decisions and recommendations, and the administration thereof, the Procedures established in Section 9-4 of the Code of Athens-Clarke County.

II. Composition and Design of Planning Commission

- A. **Members:** The Planning Commission shall be composed of ten (10) members. The Athens-Clarke County Mayor and Commission shall appoint members.
- B. **Terms:** The term of office of the members of the Planning Commission shall be five (5) years or until their successors are appointed. No one may serve on the Planning Commission more than two full five-year consecutive terms.
- C. **Vacancies:** Resignations from the Planning Commission must be submitted in writing to the Secretary of the Planning Commission. The Athens-Clarke County Mayor and Commission, upon receiving written charges and after a public hearing, shall remove members of the Planning Commission for just cause, including, but not limited to:
 - 1. Failure to attend three (3) consecutive, regular voting meetings of the Planning Commission;
 - 2. Failure to maintain permanent residence within the jurisdiction of Athens-Clarke County; or
 - 3. Violation of Planning 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 Planning Commission must be residents of Athens-Clarke County. Members may not be employed by the Athens-Clarke County Unified Government. Members of the Planning Commission may not serve as elected officials of Athens-Clarke County.

- E. Payment to the Planning Commission Members: All members serve without compensation but may be reimbursed for actual expenses. Members of the Planning Commission shall be reimbursed for travel expenses associated with their duties at a rate of \$10.00 per regular meeting attended.

III. Officers, Quorum and Affirmation of Motions:

- A. Officers: Elections for Officers will occur at the Planning Commission's first regular voting meeting of the Athens-Clarke County Unified Government's fiscal year.
1. Chair: The Planning 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 a majority of the Planning Commission, subject to these bylaws, Title 8 Planning and Title 9 Zoning and Development Standards of the Code of Athens-Clarke County, and *Webster's New World Robert's Rules of Order: Simplified and Applied, 2nd Edition*¹. The Chair shall appoint any committees found necessary to facilitate any business before the Planning Commission. The Chair shall have the authority to determine the need to call for a roll call vote when a voice vote is inconclusive. The Chair shall direct the Secretary to prepare the agenda for each meeting.
 2. Vice Chair: The Planning 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 Planning 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 Planning 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 Planning Commission member from serving a complete term as Chair.
 3. If neither the Chair nor the Vice Chair is present for a meeting, then the Planning 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 Planning 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 Planning Commission.

¹ Robert McConnell Productions. *Webster's New World Robert's Rules of Order: Simplified and Applied, 2nd Edition*. New York: Hungry Minds, Inc., 2001.

- B. Quorum: To constitute a quorum for the transaction of business, there shall be required to be present at any meeting of the Planning Commission at least six (6) members.
- C. Decisions of the Planning Commission: The Decisions of the Planning 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 Chair of the Planning Commission will vote only in the instance of a tie vote. Recommendations to the Mayor and Commission shall be for the approval, approval with conditions, or denial of an application. Final decisions on applications or matters before the Planning Commission, such as appeals heard by the Planning Commission, shall be approved, approved with conditions, tabled, or denied.
- IV. Bylaws and Rules of Procedure: The membership of the Planning Commission shall adopt Rules of Procedure and By-laws not in conflict with the provisions of Title 9, Zoning and Development Standards, of the Code of Athens-Clarke County, or any other applicable ordinance within 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 Planning Commission no less than three (3) days prior to the meeting at which the vote to amend is taken. Adoption by majority of the membership of the Planning Commission shall be required to amend or adopt the Rules of Procedure and the Bylaws. For instance, if all ten (10) Planning Commission positions are appointed and filled, six (6) votes are necessary to adopt or amend the Rules of Procedure or the Bylaws regardless of the number of members present at the meeting.
- V. Meetings: Meetings of the Planning Commission shall be held at the call of the Chair and at such other times as the Planning Commission may determine. All meetings of the Planning Commission shall be open to the public. However, members of the public shall not address the Planning Commission until invited to do so by the Chair. Regular meetings of the Planning Commission shall be held monthly. Called meetings may be held, as needed, following provisions in the Bylaws Section: V (B).
- A. The Regular Planning Commission Meeting Schedule is as follows, unless otherwise announced:
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| Date | 1 st Thursday of each Month |
| Time | 7:00 |
| 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 twenty-four (24) hours prior to the time set for the meeting. The Clerk of Commission and the newspaper which serves as the legal

organ shall be notified of any Special Called Meetings at the same time as the members are notified. 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 established in Title 9 Zoning and Development Standards of the Code of Athens-Clarke County are in effect for Special Called Meetings. Only those items listed on the Agenda shall be considered at a Special Called Meeting.

- C. Emergency Meetings may be called by the Chair when special circumstances occur and are so declared by the Planning 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 Planning 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 Planning 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 and the newspaper which serves as the legal organ shall be notified of any cancellation of meetings at the same time as the members are notified. 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 Planning Commission for that day shall be cancelled.
- E. Adjourned Meetings: Should the Planning 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 Worksessions: Committee Meetings and Worksessions of the Planning Commission may be called by the Chair of the Planning 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 Planning Commission shall not conduct

Administrative Hearings nor shall they occur at Planning Commission Worksessions. Minutes of Committee meetings are not required.

G. Minutes and Agendas:

1. Minutes: The Planning 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 Planning 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 Planning Commission and available to the public after adoption by the Planning Commission. The applicant or any other party to the proceedings may have a verbatim transcript prepared by an official court reporter, certified in the State of Georgia, at his or her own expense; provided, however, a copy of the transcript shall be filed with the Secretary of the Planning Commission and copies made available to other parties at actual cost.
2. In addition to the Minutes of the Planning Commission, a summary of the subjects acted on and those members present at a meeting of the Planning Commission shall be written and made available to the public for inspection within two (2) business days of the adjournment of the meeting.
3. Agenda: The Secretary, at the direction of the Chair, 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 Planning Commission and the Mayor and 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:
 - i. Determination of Quorum;
 - ii. Election of Acting Chair, if necessary;
 - iii. Introduction of All Documents into the Official Record
 - iv. Approval of Minutes of the Previous Meeting(s);
 - v. Old Business;
 - vi. Administrative Hearing;
 - vii. New Business;

- viii. Other Business;
- ix. Adjournment

VI. Conflict of Interest: The Planning Commission members shall be governed by the provisions of the Official Code of Georgia (O.C.G.A.) § 36-67A-1 et seq, (Chapter 67 A, Conflict of Interest in Zoning Actions) and as follows:

A. Definitions: As used in this section the following definitions shall apply:

1. "Applicant" means any person who appears before the Planning Commission and any attorney or other person representing or acting on behalf of a person who applies for an appeal, a variance, or any other action that the Planning Commission has the duty to consider in the application of its powers granted in Title 9, Zoning and Development Standards, of the Code of Athens-Clarke County.
2. "Business entity" means any corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust.
3. "Campaign contribution" means a "contribution" as defined in paragraph (6) of Official Code of Georgia (O.C.G.A.) § 21-5-3 et seq.
4. "Financial interest" means all direct ownership interests of the total assets or capital stock of a business entity where such ownership interest is 10 percent or more.
5. "Member of the family" means the spouse, mother, father, brother, sister, son or daughter of a Planning Commission member.
6. "Opponent" means any person who opposes an application request or any attorney or other person representing or acting on behalf of a person who opposes a Planning Commission action.
7. "Oppose" means to appear before, discuss with, or contact, either orally or in writing, any local government or local government official and argue against an appeal or variance request.
8. "Person" means an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.
9. "Property interest" means the direct ownership of real property and includes any percentage of ownership less than total ownership.
10. "Real property" means any tract or parcel of land and, if developed, any buildings or structures located on the land.

- B. A Planning Commission member who knew or reasonably should have known that he or she has one or more of the following interests shall immediately disclose the nature and extent of such interest, in writing, to the Planning Director:
1. Has a property interest in any real property affected by a Planning Commission action which the Planning Commission will have the duty to consider and or make recommendation on; or
 2. Has a financial interest in any business entity which has a property interest in any real property affected by a Planning Commission action which the Planning Commission will have the duty to consider; or
 3. Has a member of the family having any interest described in paragraph 1 or 2 of this section.

The Planning Commission member who has one or more of the interests defined in paragraph 1,2 or 3 of this section shall disqualify his or herself from voting on the agenda item under consideration. The disqualified Planning Commission member shall not take any other action on behalf of himself or herself, or any other person, to influence action on the application. To that end, the disqualified Planning Commission member shall not make presentations to the Planning Commission, speak to the Planning Commission on behalf of or in opposition to an item under consideration, or present written argument in favor of or in opposition to members of the Planning Commission, with the exception of those materials contained as part of the official application. Such presentations may, however, be made to the Mayor and Commission if the item appears before them. The disclosures provided for in this section shall be a public record and are available for public inspection at any time during normal working hours.

If a motion cannot be passed because of the number of Planning Commission Members having a conflict of interest then the item shall be sent to the Mayor and Commission of Athens-Clarke County without prejudice, recommendation or decision.

- VII. Code of Conduct: Each member of the Planning Commission shall adhere to the following code of conduct:
- 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 matter or in the outcome of such official action.

If any member of the Planning Commission shall violate any provision of this article, that individual shall no longer be eligible to serve in any capacity with the Planning Commission.

VIII. Planning Commission Policy Regarding Site Visits And Communications Received Outside of the Hearing or Decision-making Process:

- A. Members of the Planning Commission shall not decide how they will vote on a matter pending before the Planning Commission until after the conclusion of the evidentiary proceeding on the application.
- B. Planning Commission Members shall avoid the appearance of premature decision-making by adhering to the following rules of conduct.
- C. Planning Commission Members shall disclose any discussion outside the hearing or decision-making process with anyone other than staff or other Planning Commission Members, on the record, at the Planning 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 Planning 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 Planning Commission Member shall disclose said information on the record, at the hearing or Planning Commission meeting, and all parties present shall be given a chance to respond.

IX Administrative Hearings: Administrative Hearings, such as those held to consider appeals before the Planning Commission, shall be conducted as provided for within the Code of Athens-Clarke County in relation to the specific ordinance under which the application is being presented to the Planning Commission.

- A The burden is on the applicant to demonstrate by clear and convincing evidence that all criteria for issuance of the requested action has been satisfied.
- B. The Chair, or in his/her absence the Acting Chair, may administer oaths and compel the attendance of witnesses by subpoena.
- C. The Planning 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, and shall keep records of its examinations and other official actions, which shall be of public record.
- D. The Planning Commission shall make the decision on the requested action based on the criteria found in Title 9 Zoning and Development Standards of the Code of Athens-Clarke County.
- E. The Planning Commission shall issue a written decision containing findings of fact and conclusions, either approving, approving with conditions, or denying the application.
- F. Type III decisions made by approval of a motion by the Planning Commission. The decision becomes final 15 days after the meeting date, should no request for an appeal hearing be filed, except that decisions regarding appeals of Type IV decisions become final upon approval of a motion by the Planning Commission.
- G. The Secretary must receive appeals of Type IV decisions which are to be heard by the Planning Commission within five (5) business days after the final decision is rendered.
- H. No appeals can be made to Planning Commission decisions on appeals to Type IV decisions.

- I. Type III decisions may be appealed to the Mayor and Commission.
- J. Interpretations. The Planning Commission decision is final.
- X. Rules of Procedure: The Planning Commission shall use the Rules of Procedure associated with each requested application and action as appropriate and as found in the related sections of the Code of Athens-Clarke County. In the absence of specific Rules of Procedure, the following shall be utilized.
 - A. Planning Commission Meeting: At Planning Commission Meetings, the following procedure will be followed regarding items before the Planning Commission that are not part of an official Administrative Hearing:
 - 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 Planning Commission.
 - 6. The Planning Commission will discuss the request. At the discretion of the Chair, Planning Commissioner's may ask for further information from members of the public who spoke during the Public Input Session.
 - 7. The Planning Commission will then entertain a motion and take a vote on the request.
 - 8. Motions can be for approval, approval with conditions, to table or to deny the request.
 - 9. Any person wishing to speak at the public hearing before the Athens-Clarke County Mayor and Commission at their next regular voting meeting must file a copy of the Political Campaign Contribution Disclosure Form. To facilitate compliance with this requirement, copies of the Political Campaign Contribution Disclosure Forms will be made available to those in attendance at the Planning Commission meeting and an announcement regarding this requirement will be made at the meeting.

10. 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.
11. Any person speaking to the Planning Commission shall be asked to provide their Name, Home Address, and Occupation. Speakers shall address all comments to the Planning Commission and not to other members of the audience. The following time limits for speakers shall be observed:
 - i. The Petitioner or one representative – no more than ten (10) minutes.
 - ii. A specified Interest Group shall have a total of no more than ten (10) minutes and must register the group's intent to utilize the ten minute time period with the Secretary of the Planning Commission no later than the scheduled time for the Planning Commission meeting to be first called to order.
 - iii. Any individual who wishes to speak for or against a petition or issue shall have three (3) minutes to address the Planning Commission.
 - iv. 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. Administrative Hearing: At an Administrative Hearing, all persons supporting or opposing an item before the Planning Commission may take either one of two different opportunities to address the Planning Commission on the proposed application; as follows:

1. Proponents shall first present their ten (10) minute argument and evidence in support of the item before the Planning Commission, and opponents shall then present their ten (10) minute argument and evidence in opposition to the proposed appeal or variance request.
2. Neither side will be required to use all of its ten (10) minute argument period.
3. Either side may allocate its ten (10) minute argument period among any number of speakers, provided that the presentation by all speakers for each side shall not exceed ten (10) minutes per side.
4. All persons wishing to speak longer than three (3) minutes during one side's ten (10) minute argument period must register their intent to do so with the Secretary

of the Planning Commission not later than the time of the meeting of the Planning Commission at which the administrative hearing on the item before the Planning Commission is to be conducted is first called to order.

5. In the event that all persons wishing to speak longer than three (3) minutes as a part of one side's ten (10) minute argument are not able to agree how that side's ten minute argument period shall be allocated, they shall inform the Chairman of their disagreement before either side begins its 10-minute argument, in which event the Chairman shall decide and announce the manner in which that side's ten (10) minute argument period shall be allocated. Any Planning Commission member dissatisfied with the Chairman's allocation of that side's ten (10) minute argument shall have the right to appeal the Chairman's allocation decision to the Planning Commission before either side begins its ten- (10) minute argument.
6. After the supporters and opponents of the item before the Planning Commission have concluded their ten (10) minute arguments, any person who has not yet spoken either for or against the item before the Planning Commission shall be allowed to address the Planning Commission concerning the item before the Planning Commission for no longer than three (3) minutes per person.

C. Tabling the Application. The Planning Commission shall use the following procedures for a requested table of an application:

1. When an agenda item is set for hearing before the Planning Commission for the first time, the Commission shall accept a petitioner's request to table the item for hearing at another regular meeting of the Commission without deliberation on the merits of the request if the request is made in writing, signed by the applicant, and received by the Commission staff at least 48 hours prior to the meeting being called to order. The petitioner shall request a specific regular meeting date for the hearing within three (3) months.
2. In the event an agenda item has been tabled previously and/or a written request to table is not made as required in paragraph (1) above, a petitioner's request to table the item is subject to Commission deliberation on the merits of the request to table. If the Commission votes to table the request, the hearing shall be set for the next regular meeting of the Commission unless the Commission determines additional time is needed.

Adopted this the 6th day of April 2006

Planning Commission Chair

Date