

**THE RULES OF PROCEDURE
FOR THE
CITY OF GAITHERSBURG HISTORIC DISTRICT COMMISSION**

A. PURPOSE

The purpose of these rules is to establish procedures for organizing the business of the Gaithersburg Historic District Commission, hereafter referred to as HDC, including the processing of applications for historic designation of sites, resources, or districts, demolitions, alterations, and for Certificates of Approval and Tax Credit Eligibility.

B. GENERAL RULES

The HDC shall be governed by the terms of the Historic Preservation Ordinance, as contained in the Gaithersburg City Code Article XII, and by Article 66B, § 8.01 et seq., of the Annotated Code of the State of Maryland. For procedures not covered by these rules, the HDC shall follow the current edition of Robert's Rules of Order.

C. MEMBERS, OFFICERS AND DUTIES

The HDC shall be composed of seven (7) members and two (2) alternates, a majority of which members shall be residents of the City of Gaithersburg and all of whom are qualified consistent with the provisions of Article 66B, § 8.03, MD. CODE ANN. At least two members of the Commission shall possess professional or academic training in one or more of the stated fields in accordance with the minimum professional requirements of the United States Department of the Interior for certifying local governments under 36 C.F.R. Part 61. The terms of appointment of members are three years in length as per City Code § 24-225(b), established by the Historic Preservation Ordinance. Members of the commission are eligible for reappointment and any vacancy on the commission shall be filled by the appointing authority for the unexpired term of the particular position.

- 1. Procedure for Use of Alternate Historic District Commissioner.** The HDC Alternate shall serve in the place of any regular member of the Commission who is absent or disabled from service. In such instances, the Alternate Member shall have all the powers, duties and responsibilities of a regular member and shall fully participate in all matters before the Commission. Where there are two HDC Alternates appointed, the HDC Chair shall designate a 1st Alternate and 2nd Alternate. In the case that the 1st Alternate is unavailable, the 2nd Alternate will serve.
- 2. Chair.** A Chair shall be elected annually by the members of the HDC. The Chair shall preside at all meetings, and decide all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the HDC in session at the time.
- 3. Vice-Chair.** A Vice Chair shall be elected by the HDC from among its members in the same manner as the Chair. The Vice-Chair shall serve as Acting Chair in the absence of the Chair, and, at such times shall have the same powers and duties as the Chair.

4. **Staff Liaison.** A member of the Planning and Code Administration staff, designated by the Director of Planning and Code Administration, shall serve as staff liaison to the HDC. The staff liaison, subject to the direction of the Chair of the HDC, shall keep all records, conduct all correspondence of the HDC, and generally supervise the clerical work of the HDC. These records will be available to the public in accordance with the Maryland Public Information Act. The staff liaison shall not be eligible to vote upon any matter.
5. **Recording Secretary.** A recording secretary shall take minutes of the meetings, and record and transcribe all public hearings. The staff liaison may perform these duties.
6. **Elections.** The election of Chair and Vice-Chair shall be held at the HDC's first meeting of each calendar year.
7. **Applications Involving Members.** No HDC member, in an official capacity, shall take part in the hearing, consideration, or determination of any case in which the member is a party or has a financial interest or represents a party in any professional capacity.
8. **Qualification to Vote.** No HDC member shall vote on any matter deciding an application unless that member shall have attended the HDC's previous deliberations on such application, or shall otherwise have reviewed the entire record including any transcript and minutes.
9. **Impartiality Required.** No HDC member shall discuss *ex parte* any pending application with any parties prior to the HDC's deliberations on such application, provided, however, that members may seek and/or receive information pertaining to the application from staff prior to the hearing. At the beginning of each public hearing, any HDC member having had prior communication, should disclose such action stating the nature of the exchange and disclose any special interest.
10. Each member of the HDC shall be thoroughly familiar with statutes, laws, preservation criteria, ordinances, and rules of procedure relating to preservation of historic resources and the HDC.
11. The HDC will conduct its meetings in accordance with the Maryland State Open Meetings Law. Polling opinions for purposes of decision making outside of the public meeting on matters regarding applications is prohibited.
12. All members will abide by the City Code of Ethics.

D. MEETINGS

1. **Regular Meetings.** The HDC shall hold meetings once during each calendar month to entertain matters presented to the HDC. Meetings shall be held in City Hall or at such other place and on such date and at such time as shall be publicly announced. All meetings shall conform to the Maryland State Open Meetings Act.

2. Special Meetings. Special meetings of the HDC may be called at any time by the Chair. At least forty-eight hours written notice of the time and place of special meetings shall be given by the staff liaison or by the Chair, to each member of the HDC and the general public, provided that this requirement may be waived by action of a majority of all members.

3. Cancellation of Meetings. Whenever there is no business for the HDC, the Chair may dispense with a regular meeting by giving notice to all the members not less than twenty-four hours prior to the time set for the meeting.

4. Quorum. A quorum shall consist of a majority of the members of the HDC.

5. Conduct of Meetings. Meetings shall be subject to the provisions of the Maryland State Open Meetings Law. The order of business at regular meetings shall be as follows:

- (a) Call to order;
- (b) Approval of minutes of previous meeting;
- (c) Public hearings;
- (d) Consent items and courtesy reviews;
- (e) Other HDC business;
- (f) Updates; and
- (g) Adjournment.

6. Procedure for Hearing Cases. The procedure for hearing cases shall be as follows: Check for conflicts of interest and disclosure; call staff to present facts of the application; call upon applicant or representative to explain request, answer questions; persons in favor of application may speak; persons opposed to application may speak; rebuttal remarks by applicant; consideration of application by Commission: discuss with respect to guidelines for the respective district and the U.S. Secretary of Interior's Standards; discuss modifications/conditions that Commission may recommend; close the record.

7. Preliminary Statement by Chair. The following statement shall be read by the meeting Chair at the start of each meeting: This Commission is empowered to meet and act under Article XII of the City Code of Gaithersburg. The technical qualifications of the staff of this Commission and the members of the Commission are on file with the City of Gaithersburg, are available on request to any applicant, and are hereby made a part of the legal record of each and every application heard today. Each application heard today is considered on its own merits and is not to be considered as establishing a precedent for any other application.

E. APPLICATION PROCEDURES FOR HISTORIC AREA WORK PERMITS

1. Filing of Application. A complete application must be filed with the Planning and Code Administration at least nine (9) working days prior to the next meeting of the HDC accompanied by sketches, drawings, photographs, specifications, description, building location plat, and any other supporting documentation of the proposed project as required in the application for historic area work permits. No application will be considered complete and subject to public proceedings until all required submissions are received.

2. Notice to Neighboring Properties and Other Required Parties. After scheduling a public meeting, notice thereof shall be accomplished by city staff, by ordinary mail, being given to property owners within two hundred (200) feet of the property, not less than seven (7) calendar days prior to the meeting at which the matter is to be heard, and to those citizens or organizations which the city manager or designee determines may have an interest in the proceedings. In addition, notice shall be accomplished by posting an appropriate sign on the site and publication at least once, not less than seven (7) days prior to the meeting.

3. Preliminary Consultations. It is the practice of the HDC to encourage preliminary consultations prior to submission of formal applications in cases involving new structures or extensive alterations and/or additions to existing structures. The HDC may, in its discretion, meet informally with the applicant or agent at an early stage in the design process to advise the applicant concerning the historic preservation guidelines, the nature of the area where the proposed construction is to take place, and other relevant factors. During the preliminary consultation, the HDC collectively shall refrain from any indication of approval or disapproval of the proposal, but shall not be barred from a reasonable discussion of the applicant's proposal. No advice or opinion given, or reported as having been given, in such informal meeting shall be in any way official or binding upon the HDC or the applicant.

4. Courtesy Reviews. The Historic District Commission may review and make recommendations to the Planning Commission on applications for site development plan approvals, including amendments and modifications thereto, involving the construction, alteration, reconstruction of, or additions to existing buildings or structures or demolition thereof on a site located within courtesy review areas as stated in the Historic Preservation Master Plan Element. The courtesy review areas include, but are not limited to, Olde Towne, and the subdivisions of Observatory Heights and Realty Park.

5. Public Hearings. HDC will hold a public hearing on the applications. The agenda for the public hearing and all background information related to the application shall be made available to the general public prior to the hearing.

6. Time for Decision. The HDC shall act within 45 days from receipt of a complete application as determined by city staff, except when the time limit has been extended by mutual agreement between the applicant and the HDC.

7. Review Criteria. The HDC shall review the application, and in doing so, shall apply the review criteria contained in the City Code Article XII Preservation of Historic Resources, the U.S. Secretary of the Interior's Standards for Rehabilitation, the Maryland Preservation Commissions Handbook, and the adopted Historic District Guidelines.

8. Approved Application. If the application is approved, the HDC staff liaison shall transmit a Certificate of Approval signed by the HDC Chair clearly describing the nature of the approved work. A copy of this information shall be forwarded at the same time to the City's Building Inspections Department which is responsible for the enforcement of the provisions of this ordinance.

9. **Denied Application.** If an application is denied, written reasons for denial shall be mailed by the staff liaison to the applicant in a timely manner.
10. If the HDC denies an application for a Certificate of Approval, a new application affecting the same property may be submitted within one year of the denial only if either a substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration, or relocating a structure or other conditions related to the District, or surrounding uses have changed substantially.
11. The HDC shall use all reasonable efforts to expedite any concurrent process with the State Historic Preservation Officer, if such a process is desired by the applicant for the purpose of securing both a Certificate of Approval and a Federal Historic Preservation Tax Credit or other approval.

F. MODIFICATIONS OF APPLICATIONS

An approved or pending application within the authority of the HDC may be modified by a written request from the applicant. Such a request shall include a description of the proposed change and shall be accompanied by elevations, plans, or sketches where necessary. If the HDC finds that the modification constitutes a substantial change, which might affect surrounding property owners, it shall notify affected property owners before taking action on the modification. The HDC shall thereupon treat the request in the same manner as any other application.

G. VOTE

The vote of a majority of those members present and voting shall be sufficient to decide matters before the HDC provided a quorum is present. A motion fails with a tied vote.

H. CONDITIONAL APPROVAL

The HDC may affix or establish necessary conditions to its approval of any matter to come before the Commission.

I. APPEALS

Appeals from the actions of the HDC shall be made as provided by law.

J. AMENDMENTS

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than a simple majority of the members of the HDC, provided that such amendment shall have first been presented to the membership in writing at a regular or special meeting preceding the meeting at which the vote is taken.