

Article 35. Ordinance Bodies & Administrators

- 35.1 CITY COUNCIL
- 35.2 PLANNING COMMISSION
- 35.3 UDO BOARD OF ADJUSTMENT
- 35.4 HISTORIC DISTRICT COMMISSION
- 35.5 ADMINISTRATORS AND DIRECTORS
- 35.6 CONFLICTS OF INTEREST

35.1 CITY COUNCIL

A. Powers and Duties

The City Council shall have the following powers and duties to be carried out in accordance with ~~these regulations~~this Ordinance, ~~which that~~ include, but are not limited to, the following:

1. To initiate and make amendments to the text of ~~these regulations~~this Ordinance and to the Zoning Map.
2. To hear, review, and adopt or reject amendments to the text of ~~these regulations~~this Ordinance and to the Zoning Map.
3. To take any such other action not delegated to the Planning Commission or the UDO Board of Adjustment as the City Council may deem desirable and necessary to implement the provisions of this Ordinance.

B. Conflicts of Interest

Each member shall comply with the conflict of interest standards in Section 35.6.

35.2 PLANNING COMMISSION

A. Powers and Duties

The Planning Commission, or applicable committee of the Planning Commission, in accordance with this Ordinance, shall have the following powers and duties ~~to be carried out in accordance with these regulations which that~~ include, but are not limited to, the following:

1. To initiate, review, and make recommendations to the City Council regarding UDO amendments and Zoning Map amendments as per the applicable general statutes and the Interlocal Cooperation Agreement between the City of Charlotte and Mecklenburg County, as may be amended from time to time. ~~To initiate, review, and make recommendations to the City Council regarding UDO amendments and zoning map amendments as per the Interlocal Cooperation Agreement, as amended from time to time.~~
2. To adopt such rules of procedure necessary for the administration of its responsibilities consistent with these regulations.

B. Membership, Hearings, and Procedures

1. Members ~~and officers~~ of the Planning Commission shall be appointed and removed in accordance with the Interlocal Cooperation Agreement and its adopted rules of procedure. ~~between the City of Charlotte and Mecklenburg County, as amended from time to time.~~
2. The Planning Commission membership shall meet the proportional extraterritorial representation requirements of N.C.G.S. § 160D-307.
3. The rules of procedure adopted by the Planning Commission ~~shall~~will be kept on file at the Planning Department, at the City Clerk's office, and posted on the Planning Department website.
4. ~~The Planning Commission shall keep minutes of its proceedings, which shall indicate that a member is present, absent, or excused from voting under the rules of the Commission. Once approved, the minutes shall record the vote of each member. The Commission's records of its proceedings and other official actions shall be available in the Planning Department as public records.~~
4. Each member shall comply with the conflict of interest standards in Section 35.6.

C. Meetings

- ~~1.—All meetings and hearings shall be open to the public as required by law and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the Planning Commission in accordance with these regulations and in accordance with the Interlocal Cooperation Agreement, as amended from time to time.~~
- ~~2.—No meeting or business shall be conducted by the Planning Commission or applicable committee of the Commission without a quorum, as defined for the Planning Commission and its committees by the Interlocal Cooperation Agreement, as amended from time to time.~~
- ~~3.—In the event that a quorum is not present at any meeting of the Planning Commission or applicable committee of the Commission, the meeting shall be rescheduled by the Chairperson to a date certain, as soon as is practical and in accordance with applicable rules of the Commission.~~

DC. Staff

1. The Planning Department staff shall provide support for the Planning Commission ~~shall be provided~~ in accordance with the Interlocal Cooperation Agreement ~~between the City of Charlotte and Mecklenburg County, as amended from time to time.~~
2. Planning Department staff shall comply with the conflict of interest standards in Section 35.6.

35.3 UDO BOARD OF ADJUSTMENT

A. Powers and Duties

The UDO Board of Adjustment, having been established in accordance with Chapter 160D of the North Carolina General Statutes and any applicable legislation, shall have the following powers and duties ~~to be carried out in accordance with these regulations which~~ that include, but are not limited to, the following:

1. To hear and decide appeals ~~for of~~ administrative decisions by staff, administrators, directors, and designees in accordance with the appeal provisions of Section 37.8.B.1.
- ~~2.—To hear and decide appeals regarding the issuance or denial of a certificate of appropriateness, in accordance with the provisions of Section 14.1.M and 14.2.C.~~
2. To hear and decide petitions for variances from these regulations in accordance with the provisions of Section 37.8.A.
3. To adopt such rules of procedure necessary for the administration of its responsibilities consistent with these regulations.
4. To recommend approval to the North Carolina Environmental Management Commission (NCEMC) for major watershed variances to the state required watershed regulations or to deny a major watershed variance from the state required watershed regulations per Section 37.8.A.12.
5. To assume any other duties assigned by the City Council.
6. Each member shall comply with the conflict of interest standards in Section 35.6.

B. Membership, Hearings, and Procedures

1. Members ~~and officers~~ of the UDO Board of Adjustment shall be appointed and removed in accordance with the City Council procedures. Each member shall take an oath of office prior to assuming their duties.
2. The UDO Board of Adjustment membership shall meet the proportional extraterritorial representation requirements of N.C.G.S. § 160D-307.

3. Rules of procedure adopted by the UDO Board of Adjustment ~~shall~~will be available to the public at the Planning Department and at the City Clerk's office, and posted on the Planning Department website.
4. The UDO Board of Adjustment shall follow the statutory procedures for evidentiary hearings, procedures, and quasi-judicial decisions in Sections 37.8.A. for variances and 37.8.B. for appeals.

~~5. Voting shall be consistent with state law and the City Charter.~~

~~6. The UDO Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or indicating the fact that a member is absent or is excused from voting under the rules of the UDO Board of Adjustment. The Board shall keep records of its proceedings and other official actions in the Planning Department as public records.~~

5. The UDO Board of Adjustment does not have the jurisdiction to address or rule upon constitutional and federal and state statutory issues or any other legal issues beyond its statutory authority.

~~C. Meetings~~

~~1. All meetings and hearings shall be open to the public as required by law and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the UDO Board of Adjustment in accordance with these regulations.~~

~~2. No meeting, hearing, or action shall be conducted by the UDO Board of Adjustment without a quorum, as defined in the rules of procedure.~~

C. Staff

1. Staffing for the UDO Board of Adjustment shall be provided by the UDO Administrator.
2. Staff shall comply with the conflict of interest standards in Section 35.6.

35.4 HISTORIC DISTRICT COMMISSION

A. Powers and Duties

The Historic District Commission, in accordance with these regulations, shall have the following powers and duties ~~to be carried out in accordance with these regulations, which~~that include, but are not limited to the following:

1. To hear, review, and decide on applications for certificates of appropriateness.
2. To develop and adopt design standards for development within designated historic districts.
3. To adopt rules of procedure necessary for the administration of its responsibilities not inconsistent with these regulations.

B. Membership, Hearings, and Procedures

1. Members ~~and officers~~ of the Historic District Commission shall be appointed and removed in accordance with the resolutions adopted by the Charlotte City Council and the Mecklenburg County Board of County Commissioners.
2. The officers of the Historic District Commission shall be a Chairperson, a Vice Chairperson, and a Second Vice Chairperson.
3. The Chairperson shall preside at all meetings, appoint all standing and temporary committees, make assignments to design review committee meetings, have the right to vote, and may call special or emergency meetings of the Historic District Commission. The Chairperson or their designee is authorized to sign certificates of appropriateness.

4. The Vice Chairperson shall preside at meetings in the absence of the Chairperson and may call special or emergency meetings of the Historic District Commission. In the absence of both the Chairperson and the Vice Chairperson, the Second Vice Chairperson shall preside and may call special or emergency meetings of the Historic District Commission.
5. At the first regular meeting in June, the Historic District Commission shall elect officers for a term of one year. Officers shall take office on the following July 1st. If an office becomes vacant during a term, the Historic District Commission shall elect one of its members to serve the remaining portion of the unexpired term. Officers shall be eligible for reelection.
6. New Historic District Commission members shall complete the Historic District Commission orientation before voting at a hearing and shall take an oath of office prior to assuming their duties.
7. A majority of the members of the Commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields.
8. Rules of procedure adopted by the Historic District Commission shall be available to the public at the Planning Department and in the City Clerk's office, and posted on the Planning Department website.
9. Each member shall comply with the conflict of interest standards in Section 35.6.

C.—Meetings

- ~~1.—All meetings and hearings shall be open to the public as required by law and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the Historic District Commission in accordance with these regulations and in accordance with the resolutions adopted by the City Council from time to time.~~
- ~~2.—Any rules of procedure adopted by the Historic District Commission shall be kept on file in in the Planning Department, and by the City Clerk, and posted on the Planning Department website.~~
- ~~2.—No meeting, hearing, or action shall be conducted by the Historic District Commission without a quorum, as defined for the Historic District Commission by the resolutions adopted by the City Council from time to time.~~
- ~~3.—In the event that a quorum is not present at any meeting of the Historic District Commission, the meeting shall be rescheduled by the Chairman to a date certain as soon as is practical and in accordance with applicable rules of the Historic District Commission.~~
- ~~4.—The Historic District Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or indicating the fact that a member is absent or is excused from voting under the rules of the Historic District Commission. The Commission shall keep records of its proceedings and other official actions in the Planning Department as public records.~~
- ~~5.—In determining certificates of appropriateness, the Historic District Commission shall follow the statutory procedures for all quasi-judicial decisions.~~
- ~~6.—All decisions of the Historic District Commission in granting or denying a certificate of appropriateness may be appealed to the UDO Board of Adjustment. A notice of appeal, in the form prescribed by the UDO Administrator, shall be properly filed by the owner or other party within 30 days of the receipt of the written notice of the determination by the Historic District Administrator or their designee. Any other person with standing to appeal has 30 days from the source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to N.C.G.S. § 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.~~
- ~~7.—Special meetings of the Historic District Commission may be called by the Chairperson, Vice Chairpersons, or the Historic District Commission staff with the consent of a majority of the members. Notices of all special meetings shall be communicated to all members of the Historic District Commission at least one week prior to the time of the meeting. Only those matters specified in the called meeting may be considered.~~

C. Staff

1. Staff shall be provided in accordance with the resolutions adopted by the Charlotte City Council and the Mecklenburg County Board of County Commissioners, and provided by the Planning Department.
2. Staff shall comply with the conflict of interest standards in Section 35.6.

35.5 ADMINISTRATORS AND DIRECTORS

A. Administrators

The following individuals, including their designees, ~~including their designees~~ are responsible for the administration and enforcement of specific articles in this Ordinance:

1. The UDO Administrator is responsible for the overall administration of the Ordinance. In addition, the UDO Administrator has the following responsibilities:
 - a. In the case of conflicting regulations within this Ordinance, the UDO Administrator shall make the final determination of how the regulations are applicable.
 - b. Manage the operation of the UDO Board of Adjustment.
2. The Zoning Administrator is responsible for enforcing and administering the zoning regulations in Articles 3 through 22, ~~with the exception of~~ including Section 14.1 (HDO Historic District Overlay) and Section 14.2 (HDO-S) Streetside Historic District Overlay. ~~Additional responsibilities of the Zoning Administrator are found in Article 39.~~ Additional responsibilities of the Zoning Administrator are found in Articles 37, 38, and 39.
3. The Historic District Administrator is responsible for ~~enforcing and~~ administering the historic district regulations in Section 14.1 (HDO Historic District Overlay) and Section 14.2 (HDO-S) Streetside Historic District Overlay. ~~Additional responsibilities of the Historic District Administrator are found in Section 40.2.C~~
4. The Stormwater Administrator is responsible for enforcing and administering Articles 23 through 26 and Article 28. Additional responsibilities of the Stormwater Administrator are found in Sections 39.1.B, 39.1.D, 39.1.E, 39.2.D, 39.2.F, and 39.2.G.
5. The Floodplain Administrator is responsible for enforcing and administering Article 27. Additional responsibilities of the Floodplain Administrator are found in Section 39.2.B.
6. The Chief Urban Forester is responsible for enforcing and administering Sections 20.13 through 20.18 and Section 39.2.J. ~~Article 20~~
7. The Subdivision, Streets and Infrastructure Administrator is responsible for enforcing and administering Articles 29 through 34. Additional responsibilities of the Subdivision, Streets, and Infrastructure Administrator are found in Sections 39.1.F and 39.2.H.

B. Directors

City of Charlotte and Mecklenburg County department directors, including their designees, ~~including their designees~~, are permitted to make certain determinations of requirements within this Ordinance, as described within the Articles.

35.6 CONFLICTS OF INTEREST

The North Carolina General Assembly has adopted rules in N.C.G.S. § 160D-109 regarding conflicts of interest for governing boards, appointed boards, and administrative staff:

A. City Council

A City Council member shall not vote on any legislative decision regarding a development regulation, adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A City Council member shall not vote on any zoning map amendment if the land owner of the property subject to a rezoning map amendment or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
~~A City Council member shall not vote on any legislative decision regarding a development regulation and a zoning map amendment adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member or a person with whom the City Council member has a close familial, business, or other associational relationship.~~

B. Appointed Boards

Members of appointed boards shall not vote on any advisory recommendation or quasi-judicial decision regarding a development regulation ~~and a~~ adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. ~~or~~ Members shall not vote on any zoning map amendment recommendation if the property owner subject to a zoning map amendment or an applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

C. Administrative Staff

No staff member shall make a recommendation to an elected or appointed board or final administrative decision required by this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or ~~if the applicant or other~~ a person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the City to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the City, as determined by the City.

D. Quasi-Judicial Decisions

A member of any board exercising quasi-judicial functions pursuant to this Ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex-parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

~~E.—Resolution of Objection~~

~~If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse themselves, the remaining members of the board shall by majority vote rule on the objection.~~

E. Familial Relationship

For the purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term also includes the step, half, and in-law relationships.