

Durham City-County Appearance Commission By-Laws

ARTICLE I NAME

The name of this organization shall be the Durham Appearance Commission.

ARTICLE II OBJECT AND PURPOSE

The purpose of the Durham Appearance Commission is to enhance and improve the visual quality and aesthetic character of Durham City and County.

ARTICLE III POWERS; CONSIDERATION OF REQUESTS

Section 1. Powers.

The powers of the Durham Appearance Commission, as set forth in Interlocal Agreement between Durham City and County, are:

- A. To initiate, propose and assist in the implementation of programs of general community beautification in Durham City and County.
- B. To seek to coordinate the activities of individuals, agencies and organizations, public and private, whose plans, activities and programs bear upon the appearance of Durham City and County.
- C. To provide leadership and guidance in matters of area or community design and appearance, including public safety and crime prevention through environmental design principles.
- D. To make studies of the visual characteristics and problems, including surveys and inventories of an appropriate nature, and to recommend standards and policies of design.
- E. To prepare both general and specific plans for the improved appearance of Durham City and County. The plans may include the entire jurisdictions or part of the jurisdictions. The plans may set forth desirable standards and goals for the aesthetic enhancement of Durham City or County.
- F. To respond to any requests from the Governing Bodies, public agencies, private entities, developers and Planning Staff to review proposals for buildings, facilities or projects located within Durham City or County. Requests by a Governing Body shall be totally within the discretion of the Governing Body, but limited to special projects or unusual circumstances.

- G. To make recommendations regarding the adoption or amendment of ordinances that will serve to enhance the appearance of Durham City or County.
- H. To direct public attention toward situations that may affect the appearance of Durham City and County.
- I. To promote public interest in and an understanding of the recommendations, studies and plans which will enhance the appearance of Durham City or County through notification, publication and distribution of materials related to the aesthetic environment of Durham.
- J. To conduct public meetings and educational sessions, which will advance the cause of an improved appearance for Durham City and County.
- K. To establish a process to recognize the achievements and contributions to the community related to appearance and design.
- L. To accept grants to further the purpose of community aesthetics and design.

Section 2. Response to Requests

A request for the Appearance Commission to review a project or issue, undertake a study, or complete a project should be made in writing and should specify the scope of the review, study, or project requested. The Appearance Commission will issue a written response to every request it receives. If the request is from the governing bodies, Planning Commission, Joint City-County Planning Committee, Planning staff, or other boards and commissions, the Appearance Commission shall make every reasonable effort to provide the review, study, or project requested. If it is unable to accommodate the request, it will inform the requesting entity regarding the reasons it cannot provide the assistance requested. If the request is made by an individual or entities other than those named above, the Commission will determine whether to provide the requested review, study, or project in accordance with a written referral review policy that shall be adopted by the Commission.

ARTICLE IV
ORGANIZATION OF THE COMMISSION

Section 1. Appointment

The Commission shall consist of fifteen (15) members, with eight (8) to be appointed by the Durham County Board of Commissioners and seven (7) to be appointed by the Durham City Council. Members shall reside within the jurisdiction of the appointing authority. While encouraging applicants with expertise in aesthetics, attempts shall also be made to assure that the appointments represent a cross section of the community. All members shall have equal rights regardless of whether the matters at issue are located inside or outside the corporate limits. The Joint City-County Planning Committee may recommend to the Governing Bodies individuals for appointment to the Appearance Commission to ensure that State mandated qualifications are met.

Section 2. Qualifications

A majority of the members of the Commission shall have expertise in a design field such as architecture, landscape design, city planning, horticulture, urban design or a related field. The Commission shall include the following professionals:

- Minimum of three (3) Registered Architects;

- Minimum of three (3) Registered Landscape Architects;
- Minimum of two (2) Real estate agents, developers or builders;
- Minimum of two (2) other design professionals.

Any remaining seats shall include members who may not have the background of the members representing specific professional areas above. In the event that the pool of applicants is insufficient to fill a particular category, then the City and/or the County may appoint individuals with demonstrated expertise and/or experience in one of the other designated categories. If the pool of applicants is still insufficient to fill the required categories, then the City and/or the County may make one or more at-large citizen appointments to the Commission. Members shall also meet those general qualifications specified by the appointing body, which are requirements for all individuals serving on a governmental board or commission.

Section 3. Tenure

Members shall serve three (3) year terms and may be reappointed for a second term. No member shall serve more than two (2) full consecutive terms. Initial appointments for the creation of the Commission shall be for staggered terms.

Members may continue to serve until their successors have been appointed. Vacancies occurring for reasons other than the expiration of terms shall be filled by the appointed authority as they occur for the period of time of the unexpired term. Appointees filling an unexpired term are eligible for appointment for two (2) additional full terms.

Section 4. Removal of Members

A member of the Commission may be removed by the body that appointed that member for any of the following reasons:

- a. violation of the attendance, ethics or conflict of interest provisions of the Bylaws.
- b. moving out of Durham County or out of the jurisdiction that a member represents.
- c. non-payment of taxes.
- d. Any reason deemed sufficient by the body or official that appointed the member.

The members of the Commission shall serve without compensation.

Section 5. Duties and Responsibilities

The Commission meeting as a whole shall exercise the powers enumerated in Article 3-, except when it explicitly authorizes an officer or committee to act for it in a specific instance.

The Commission, meeting as a whole, shall elect its officers and adopt the annual operating and supplementary budgets of the Commission contingent upon actions by the City Council on appropriations requested by the Commission.

The Commission meeting as a whole shall authorize all major financial contracts and obligations by the Commission, except when it explicitly authorizes an officer or committee to act for it in a specific instance.

Section 6. Meetings

The Commission shall establish a regular monthly meeting time. All meetings shall be subject to the applicable provisions of the North Carolina Open Meetings Law, NCGS Chapter 143, Article 33C. The

Commission shall keep permanent minutes of its meeting. The minutes shall include the attendance of its members and its resolutions, findings, recommendations and other actions. Meetings may be held anywhere in or outside of Durham County as circumstances reasonably require. Notice of such meetings shall be given as required by law.

Special Meetings The Chair may call a special meeting of the Commission at any time by giving oral or written notice to all members in advance in compliance with North Carolina Open Meetings Law. Special meetings shall also be scheduled upon request of at least five (5) members of the Commission.

Cancellation of Meetings Whenever there is no business to come before the Commission or one of its Committees, the Chair or Committee 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.

Section 7. Quorum and Voting

A quorum is necessary for the transaction of business at any meeting of the full Commission. A quorum shall be considered a majority of the voting members of the Commission. All actions shall be decided by a majority vote of the voting members in attendance, a quorum being present. If a quorum is present and the early departure of a member results in the lack of a quorum, the member should notify the Chair of the need to depart early before the meeting starts.

Section 8. Attendance

It is expected that members appointed to the Commission will regularly attend its meetings. Members may forfeit the remainder of their terms and may be replaced under the following conditions:

- a. any member who has two (2) unexcused absences of regular Commission meetings within a one-year period of time;
- b. a member who has five (5) absences, excused or unexcused, of regular Commission meetings within a one-year period of time.

When the Commission finds that a member has become disqualified for membership because of his or her attendance record or residence address, the Chair of the Commission shall notify the Governing Body that appointed the member so that a new member may be appointed for the remainder of the unexpired term.

Section 9. Excused and Unexcused Absences

A member who will be unable to attend a regular meeting of the Commission must contact the Chair or the planning staff at least twenty-four (24) hours before the scheduled meeting and indicate the general reason for being absent. Earlier notification is encouraged. The Commission will be notified of the absence and reason at the beginning of the meeting. Members who give less than 24 hours notice will be considered unexcused, with the exception of emergencies or sudden illnesses. (Twenty-four hour notification is important to allow the staff/Chair of the Commission to know whether a quorum will be present in sufficient time to cancel the meeting if necessary.)

When a member has had a total of five absences within a one year time period, (including excused or unexcused), the Secretary shall notify the Commission of that fact, and the Commission may review the attendance record of the member, and take appropriate action. Appropriate action may include notifying the body that appointed the member of his or her attendance record.

A majority of the members shall constitute a quorum at any regular or special meeting of the Commission.

The Chairman shall request the removal of any member who has three consecutive unexcused absences or who is absent from a total of six regular meetings within a given fiscal year.

Section 10. External Representation

The Chairman shall serve as the sole spokesperson for the Commission. The Chairman may also, at his/her discretion, appoint another member to speak and act on behalf of the Commission. Commissioners attending public meetings shall not speak or act as representatives unless appointed by the Chairman to do so, nor shall they use their Commission membership as leverage in a public meeting to further their personal goals.

ARTICLE V OFFICERS

Section 1. Officers and Terms of Office

The elected officers shall consist of a Chairman, a Vice-Chairman and a Secretary, whose terms shall be for one year. They shall be eligible for an additional term of one year. The terms of these officers shall begin with the July meeting. The duties of a treasurer shall be handled by staff, under the supervision of the Chair.

Section 2. Chairman

The Chairman shall prepare agendas for and preside over the regular and special meetings of the Commission; shall appoint committees and designate their chairmen; and shall be an ex-officio member of all committees. The Chairman shall sign all documents relative to action taken by the Commission.

Section 3. Vice-Chairman

The Vice-Chairman shall assist the Chairman and perform the duties and exercise the powers of the Chairmen in his absence.

Section 4. Secretary

The Secretary shall be responsible for electronically recording all meetings of the Commission, and the preparation of minutes of the meetings. The Secretary may prepare the minutes, or gain consent of another to so act.

Section 5. Vacancy

In the event of a vacancy in the offices of Chairman or Vice-Chairman, the vacancy shall be filled by a nomination and election at the next regular meeting following the meeting at which the vacancy has been announced.

Section 6. Election of Officers

The nomination and election of the Chairman and Vice-Chairman shall occur during the regular June meeting of the Commission. A slate of officers prepared by a nominations committee, appointed by the

Chairman, shall be presented. There may be additional nominations from the floor. In the event of two or more candidates for one office, there shall be a secret written ballot. Election shall be by a majority of those present and voting.

ARTICLE VI STANDING COMMITTEES

Standing Committees may be formed in the future at the discretion of the Commission.

ARTICLE VII OTHER COMMITTEES

The Commission may authorize the Chairman to create special or ad hoc committees as needed and to appoint non-Commission members to serve on such committees. The Commission may also authorize the Chairman to appoint former Commission members to represent the Commission for limited purposes provided that the scope and term of the appointment are specified in writing.

ARTICLE VIII ETHICS POLICY

All members of the Commission are subject to the Durham County Ethics Policy, and to the Statement of Principles for the City of Durham. Attached copies are hereby made a part of these by-laws.

Section 1. Conflicts of Interest

Commission members hold their positions for the benefit of the public. Conflicts of interest can arise in situations in which a Commission Member's duty to act in the public interest conflicts with a potential desire to advance his or her own interest. Several types of conflict of interest can affect impartiality. They include financial conflicts, conflicts by associations with those affected by a decision, and personal bias. As a general rule, Commission members shall refrain from taking part in actions that might reasonably call into question the impartiality and fairness of those decisions. The intent is to limit advocacy, pressure, or undue influence where a conflict exists, not to prevent persons from providing useful information.

In order to avoid potential conflicts of interest, Commission members shall declare at the beginning of a discussion, any potential conflict of interest as defined below.

Section 2. Financial Conflicts

No Commission member shall take part in any discussion, consideration, determination or vote, other than to provide information, concerning a property in which the Commission member or a close relative (spouse, sibling, child or parent):

- a. is the applicant before the Commission;
- b. owns property within 600 feet of the subject property; or
- c. has a financial interest in the subject property or improvements to be undertaken thereon.

Section 3. Conflicts by Association

Whether reviewing, commenting or awarding funding, public perception of fairness of the Commission's decisions is important. Citizen confidence in these decisions may be affected not only in situations of actual conflict, but also in situations that have the appearance of impropriety. Therefore, no Commission member shall take part in any discussion, consideration, determination or vote, other than to provide information, concerning issues in which a personal or business associate or employer of the Commission member:

- a. is the applicant before the Commission;
- b. owns property within 600 feet of the subject property; or
- c. has a financial interest in the subject property or improvements to be undertaken thereon.

In situations that involve a non-profit or private organization for which a Commission member is an officer or board member, he or she shall be required to publicly disclose that association and shall not take part in any discussion, consideration, determination or vote concerning said situation, other than to provide information.

Violation of this ethics and conflict of interest provision shall be cause for removal of a Commission member.

ARTICLE IX BYLAWS AND AMENDMENTS

Section 1. General Rules

The Commission's Bylaws shall be consistent with the Interlocal Agreement governing the Commission. For procedures not covered by these rules, the Commission shall follow the rules contained in the current edition of Robert's Rules of Order, Revised.

Section 2. Amendments

These Bylaws may be amended by a two-thirds vote of the members present and voting at any regular meeting of the Commission, provided that the total votes in favor of the amendment is a majority of the membership of the Commission, and provided that the text of the proposed amendment has been presented at the previous meeting and mailed to the members at least two weeks advance of the meeting at which it is to be voted upon.

Any amendments must be consistent with the Interlocal Agreement forming the Commission.