

Durham  
Open Space  
and  
Trails  
Commission

**By-Laws**

Approved June 20, 2012

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# Durham Open Space and Trails Commission

## By-Laws

### Section 1: Introduction

#### 1.1 Purpose

To establish procedures for organizing the business of the Durham Open Space and Trails Commission, hereafter referred to as the Commission, in executing its duties and responsibilities.

#### 1.2 General Rules

The Commission's By-Laws shall be consistent with the Interlocal Agreement governing the Commission, and shall be approved by the Governing Bodies. 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: Responsibilities and Goals of the Commission

The primary purpose of the Commission shall be to provide advice to the Council and Board on matters relating to open space preservation and trail development. In order to provide recreational and environmental benefits for the citizens of Durham County, the Commission shall promote the preservation of valuable open spaces, the preservation of natural vegetation and stream valleys within the urban and rural environment, and the development of trails and other appropriate recreational and transportation facilities for pedestrians and bicycles. The Commission shall promote the protection of the natural environment where appropriate to serve the public interest, with equal consideration for long-term care of the environment and the short-term pressures of growth. In doing so, the Commission shall foster the wise use of the County's natural resources and shall strive to involve all segments of the Durham community.

In achieving these purposes, the Commission shall have the following specific powers and duties related to open space preservation and trails development:

1. To formulate and recommend to the Governing Bodies plans, goals, objectives, policies, standards, programs and priorities.
2. To advise the Council and Board on public and private development decisions.
3. To formulate and recommend to the Governing Bodies proposals for acquisition and capital improvements.
4. To educate the citizens of Durham County about the City and County's programs.
5. To submit an annual report to the Council and Board about the activities of the Commission.
6. To encourage gifts, donations, bequests and easements and to raise funds for open space and trail purposes through the sale of items which increase public awareness about City and County programs.

7. To assist in the management of the County's Matching Grants Program.
8. To advise the City and County administrative staff.
9. To perform any other duties as the Council and/or Board may from time-to-time delegate to the Commission.

## **2.1 Goals**

The Goals of the Durham Open Space and Trails Commission are:

1. To plan for the preservation of environmentally significant sites such as scenic stream corridors, Durham County Inventory sites, wetlands, and other lands which represent Durham's natural heritage.
2. To support the provisioning of nature, pedestrian, bicycle, and rail trails, in Durham City and County for recreation and transportation linkages to public and private community facilities. In making these linkages, priority should be given to intensive use areas, public and private.
3. To support provision of active recreation areas.
4. To educate and involve Durham's citizens on the importance of preserving open space lands within the City and County, and of the need to provide open space as an integral part of the infrastructure that accompanies the development of land.
5. To assist in the creation, preservation and long term protection of existing areas in Durham County that are presently used for passive or active recreation.

## **Section 3: Membership of the Commission**

### **3.1 Commission Composition**

The Commission shall be composed of a minimum of sixteen (16) voting members, and a maximum of thirty (30) voting members, the exact number to be determined by the Commission. All members must reside in Durham County; moving out of Durham County shall be cause for removal of the member. Moving out of the ward or township that a member represents shall be cause for removal of the member, although the member may become one of the Commission's appointments. The Commission membership shall be based upon the following:

1. Eight (8) members shall be appointed by the Board, representing:
  - (1) Oak Grove/Carr Township
  - (1) Lebanon Township
  - (1) Triangle Township
  - (1) Mangum Township
  - (4) At Large (May Be City Residents)

However, in the event that after reasonable advertisement, no qualified candidates for a township appointment come forward, then the Board shall not be bound by the township representation requirement and may instead appoint an additional at-large member.

2. Eight (8) members shall be appointed by the Council from within the Durham City limits, and representative of:

- (1) Ward 1
- (1) Ward 2
- (1) Ward 3
- (5) At Large

However, in the event that after reasonable advertisement, no qualified candidates for a ward appointment come forward, then the Council shall not be bound by the ward representation requirement and may instead appoint an additional at-large member.

- 3) One (1) member shall be appointed from each of the following elected or appointed boards:
  - a. The Durham Board of County Commissioners, appointed by the Chairman;
  - b. The Durham City Council, appointed by the Mayor;
  - c. The Durham Planning Commission, appointed by the Chairman; and
  - d. The City of Durham Parks and Recreation Advisory Committee, appointed by the Chairman.
- 4) Up to ten (10) members may be appointed by the Commission. These members may represent a special interest, or professional focus which the Commission feels would be helpful in fulfilling its duties and responsibilities.

Commission appointments shall be approved with a majority vote of the Commission, and shall serve three year terms. Members may be nominated from the floor, or by a Nominations Committee. Prospective members shall fill out an application for the Commission appointments as provided by the staff. Members appointed by the DOST shall be subject to all Commission rules and By-Laws in the same manner as appointed Commission members.

- 5) Persons serving in the following positions shall serve as ex-officio members of the Commission:
  - a. The Director of City Parks and Recreation Department, or his or her designee;
  - b. The Director of the City-County Planning Department, or his or her designee; and
  - c. The County Matching Grants Program Administrator.
  - d. The Durham County Open Space and Real Estate Administrator.

The ex-officio members shall not have the power to vote on decisions by the Commission.

### **3.2 Terms of Office**

The regular term of office for Commission members shall be three (3) consecutive years. A member may be reappointed for a second term. After two consecutive regular terms, a member shall be ineligible for reappointment until one calendar year has elapsed from the date of termination of his or her second term. A term shall continue until a successor is appointed by the appropriate governing body.

Members that are appointed as representatives from other boards or commissions will have appointments that coincide with their terms of office on their respective boards.

### **3.3 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 Interlocal Agreement.
- b. Moving out of Durham County or out of the ward or township that a member represents.
- c. Non-payment of taxes.
- d. Any reason deemed sufficient by the body or official that appointed the member.

## **Section 4: Officers**

Each year the Commission shall elect its own officers at the regularly scheduled July meeting. The Commission shall elect a Chair, a Vice-Chair and a Secretary. No member may serve as Chair for more than two (2) consecutive one (1) year terms. Officers shall serve one (1) year terms commencing on August 1 following their election.

### **4.1 Chair**

The Commission Chair shall preside at all meetings and shall sign all documents relative to action taken by the Commission.

### **4.2 Vice-Chair**

In the absence of the Chair, the Vice-Chair shall exercise the powers and perform the duties of the Chair. The Vice-Chair shall succeed the Chair in the event of a vacancy in that office.

### **4.3 Secretary**

The Secretary shall be responsible for recording minutes of all meetings of the Commission. The Secretary may act as recorder or gain consent of another member to so act. The Secretary shall keep the By-laws and other Commission records in order.

### **4.4 Vacancy**

If the appointment of the Vice Chair or Secretary should be terminated, a replacement shall be elected from the membership at the next regularly scheduled meeting following the announcement of termination.

## **Section 5: Meetings**

### **5.1 Regular 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.

## **5.2 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.

## **5.3 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.

## **5.4 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.

## **5.5 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:

1. Any member who has three (2) unexcused absences of regular Commission meetings within a one-year period of time.
2. A member who has missed 40% of regular commission meetings within a one year period of time counting both excused and unexcused

When the Commission finds that a member has become disqualified for membership because of his or her attendance record, residence address or has violated the ethics or conflict of interest standard, 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.

## **5.6 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.)

## **5.7 Conduct of Business**

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.

## **5.8 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.

### **A. 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):

1. Is the applicant before the Commission;
2. Owns property within 600 feet of the subject property; or
3. Has a financial interest in the subject property or improvements to be undertaken thereon.

### **B. 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:

1. Is the applicant before the Commission;
2. Owns property within 600 feet of the subject property; or
3. 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.

## **Section 6: Committees**

### **6.1 Nominating Committee**

The Chair shall appoint a Nominating Committee of Commission members prior to the year-end meeting to prepare a slate of officers to serve the Commission for the following year. The Chair may also appoint a Nominating Committee on an as-needed basis to review and make recommendations regarding DOST Commission appointments.

### **6.2 Other Committees**

The Commission may create such Standing or Ad-Hoc committees as it may deem necessary to promote the objectives and carry on the work of the Commission. Commission members with the exception of City Council and Board of County Commission representatives are required to serve on at least one Committee so that he/she becomes more knowledgeable about the work of the Commission. There is no cap on the number of members on each committee; Commission members can attend any Committee meeting in which they have an interest whether or not the member is actually on the Committee. Each Committee shall have at least two members from the Commission, and may include additional citizens as Associate Committee Members. The Chair and Vice-Chair of a Committee shall be Commission members. Committee chairs, Vice-chairs, members and associate members shall be appointed by the Chair of the Commission at opportune Commission meetings.

### **6.3 Committee Attendance and Voting**

Committee attendance is strongly encouraged and records of attendance will be kept. Committee members who will be unable to attend a Committee meeting should notify the Chair or staff of that Committee as soon as possible. The Committee Chair will be responsible for summary notes and attendance records. The major work projects will be done at Committee level and conflicting ideas should be resolved so that a clear recommendation can be made to the Commission.

A Committee quorum for votes and bringing forth recommendations to the full Commission shall consist of a majority of Committee members in attendance, including Associate Committee Members.

### **6.4 Associate Committee Members**

The Commission recognizes the valuable input and expertise that additional volunteers can bring to the mission and work of the Commission. To encourage greater involvement, additional citizens may serve on Committees of the Commission as Associate Committee Members. The Committee Chair shall bring forth nominations of interested citizens for approval by the

Commission. Associate members are approved by a majority vote of the Commission and serve for two year, renewable terms on the Committee.

Associate Committee Members will be notified of their appointment by letter from the Chair of the Commission.

Associate Committee members do not have to reside in Durham County

## **Section 7: Amendments**

These By-Laws may be amended by the Commission at any meeting at which a quorum is present, by a majority of those members present, provided that the notice of the proposed amendment shall be given to each member of the Commission at least ten days prior to said meeting. Any amendments must be consistent with the Interlocal Agreement forming the Commission,

**Approved by the Durham Open Space and Trails Commission on June 20, 2012.**