

Raleigh Appearance Commission

Rules of Procedure

I. OBJECT AND PURPOSE

The Raleigh Appearance Commission (the “Commission”) is a public body, appointed by the City Council, that exercises advisory and quasi-judicial functions. The Commissions’ responsibilities relate to zoning and other land use matters, as well as the visual quality and aesthetic characteristics of the City.

II. POWERS AND DUTIES

The Commissions’ duties and procedures are created by state statute and are administered via the City’s Unified Development Ordinance (the “UDO”).

1. Advisory Duties. As an advisory board, the Commission performs the duties and responsibilities granted to Community Appearance Commissions by state law, see N.C. Gen. Stat. § 160D-960, as specified in the UDO.
2. Quasi-Judicial Duties. When acting as a quasi-judicial board, the Commission performs the quasi-judicial duties of the Planning Commission. See N.C. Gen. Stat. § 160D-705 (the UDO may provide for the planning board to hear and decide quasi-judicial zoning decisions) and N.C. Gen. Stat. § 160D-301 (the City may by ordinance designate one or more boards or commissions to perform the duties of the planning board).

As a quasi-judicial board, the Commission conducts evidentiary hearings and makes quasi-judicial decisions, as specified in the UDO.

III. MEMBERSHIP

1. Membership. The membership of the Commission shall be as set forth in the UDO.
 - a. Quasi-Judicial Duties. When performing quasi-judicial functions, the Commission shall consist of nine (9) regular members and six (6) alternate members.
 - b. Advisory and Other Duties. For all other (non quasi-judicial) matters, all fifteen (15) members of the Commission shall sit as regular members.
2. Removal. The Chairman may 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.
3. Attendance: Attendance at all Commission meetings is expected by all Commission members. For purposes of quasi-judicial functions, if a circumstance arises so that a Commission member cannot attend, that Commission member should inform the Chair as soon as possible, so that an alternate can be timely secured.

IV. OFFICERS

1. Chair. The Chair must be a regular member, for purposes of performing quasi-judicial functions. The Chair shall be elected by a majority vote of the full membership of the Commission. The term of office shall be one (1) year and/or until his/her successor is elected. The Chair shall be eligible for re-election.
2. Vice-Chair. The Vice-Chair must be a regular member, for purposes of performing quasi-judicial functions. The Vice-Chair shall be elected in the same manner, and for the same term as, the Chair. The Vice-Chair shall serve as Chair in the absence of the Chair, and at such times, shall have the same powers and duties as the Chair. The Vice-Chair shall be eligible for re-election.
3. Election of Officers. The nomination and election of the Chairman and Vice-Chairman shall occur during a regular meeting of the Commission. In the event of a vacancy in the offices of Chairman or Vice-Chairman, the vacancy shall be filled by an election at the next regular meeting following the meeting the vacancy.

V. MEETINGS

1. Regular and Special Meetings. The Commission shall hold regularly scheduled monthly meetings, except that the meetings in July or December may be canceled at the discretion of the Chairman. Special meetings may be called at the discretion of the Chairman.
2. Quorum. One third of the members shall constitute a quorum at a regular or special meeting of the Commission. Provided however, the Commission shall not pass upon any quasi-judicial function when there is not a sufficient number of Commission members present for the Commission to rule in favor of an applicant on a quasi-judicial matter, pursuant to N.C. Gen. Stat. § 160D-406(i).

VI. CONFLICT OF INTEREST

All Commission members must comply with the conflict of interest provisions found at N.C. Gen. Stat. § 160D-109.

1. Advisory Decisions. Members of the Commission shall not vote on any advisory or legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.
2. Quasi-Judicial Decisions. A member of the Commission exercising quasi-judicial functions 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.

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

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

VII. VOTING

1. Quasi-Judicial Decisions. A majority of the Commission members (in accordance with the provisions for membership composition for quasi-judicial matters) is required to rule in favor of an applicant on any quasi-judicial matter. See N.C. Gen. Stat. § 160D-406(i). For the purposes of quasi-judicial decisions, vacant positions on the Commission and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) (conflict of interest) shall not be considered members of the Commission for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
2. Advisory Decisions and Other Matters. All other matters shall be decided by a simple majority.

VIII. AMENDMENTS

The Rules of Procedure for the Commission may be adopted by an affirmative vote of the majority of the Commission membership. Additionally, all amendments must be presented in writing at a regular or special meeting preceding the meeting at which the vote is taken.

Approved by City Council November 2, 2021