

Policies and Procedures  
Chesterfield Township  
Historic Preservation Commission

**Section 1 - Annual Organization; Membership; Elections; Meetings.**

- 1.1        **Organization Meeting.** The Historic Preservation Commission (hereinafter “Commission”) shall convene a meeting in January of each year for the purpose of organizing the affairs of the Commission for the year.
- 1.2        **Membership.** The membership of the Commission shall consist of five (5) regular members and two (2) alternate members. The Class of membership and term shall be as set forth in N.J.S.A. 40:D-107 et seq.
- 1.3        **Election of Officers.** At the organization meeting, the Commission shall elect a Chairperson (hereinafter “Chair”) and Vice Chairperson (hereinafter “Vice Chair”) from its members and select a secretary, who may or may not be a member of the Historic Preservation Commission or a municipal employee. In the event of a vacancy of position of Chair during the year, the Vice Chair shall serve as Chair until an election for a new Chair, which may be held at such time as is determined by the Commission. In the event of a vacancy in the position of Vice Chair during the year, an election shall be held at the next regular meeting of the Commission.
- 1.4        **Vacancies.** The Chair shall immediately notify the Mayor and Township Committee of any vacancy in membership on the Commission. All vacancies shall be filled by the Mayor within sixty (60) days.
- 1.5        **Commission Attorney.** The Commission may obtain its legal counsel from the municipal attorney at the rate of compensation determined through a contractual agreement with the Township, which may include establishment of an escrow with the applicant to pay for such costs when services are rendered

**Section 2 - Duties of Officers.**

- 2.1        **Chair.** The Chair shall preside at all meetings and hearings of the Commission, decide all points of order and matters of procedure governing said meetings or hearings, and shall perform all the duties normally appertaining to his or her office, as required by law,

ordinance, these rules or prevailing parliamentary practice. The Chair shall take no official action in dealing with third parties unless authorized by the Commission.

**2.2** **Vice Chair.** The Vice Chair shall preside at all Commission meetings and hearings in the absence or upon disqualification of the Chair, and shall have all of the powers of the Chair under such circumstances.

**2.3** **Secretary.** The Secretary shall keep minutes and records of the proceedings of each meeting held by the Commission and enter therein such resolutions as are adopted by the Commission; provide copies of all minutes and turn over all exhibits to the Township Clerk and Planning Board Administrative Officer; and provide copies of minutes and agendas to the Township webmaster for posting on the municipal website.

### **Section 3 - Meetings.**

**3.1** **Regular Meetings.** Commission meetings shall be scheduled at least once every month, or as often as required to fulfill its obligations to advise the Planning Board Administrative Officer. An annual schedule of meetings of the Historic Preservation Commission shall be adopted and advertised according with the Open Public Meetings Act and available upon request pursuant to the Open Public Records Act. If the regular meeting falls on a legal holiday, such meeting shall be held on such other day as the Commission may select.

Whenever there are no matters to be considered at any regular meeting other than the organization meeting, the Chair may cancel the meeting by providing notice of cancellation to each member of the Commission by reasonable means and as soon as possible in advance of the time set for such meeting and giving notice in accordance with the Open Public Meetings Act. Further, the Chair shall request the Township webmaster to post unofficial notices of cancellation for the convenience of the public on the Township website and/or in writing prominently posted on the door of the meeting place.

**3.2** **Special Meetings.** Special meetings may be called by the Chair, provided that notice thereof be mailed or given to each member of the Commission and to the public as required or allowed by law. An Applicant may request but shall not be entitled to a special meeting. Special meetings at the request of the applicant may be scheduled at the pleasure of the Commission served. The applicant shall be responsible for all fees and costs related thereto including the minutes of the proceeding.

**3.3** **Quorum.** At all meetings of the Commission, a quorum to conduct any business shall consist of three members. In the absence of a quorum, the members present may convene a meeting only for the purpose of adjourning the same to another date. No hearing may

proceed without a qualified quorum of the Commission for that particular hearing or application where a quorum of eligible voting members is not present.

**3.4**        **Order of Business.** Subject to the discretion of the Chair to the contrary, the order of business for all regular sessions of the Commission shall be as follows:

- A.        Call to Order.
- B.        Statement of compliance with the Open Public Meetings Act.
- C.        Roll call. Quorum.
- D.        Approval of minutes of previous meetings.
- E.        Approval of Agenda for this meeting.
- F.        Motions for adjournments of any scheduled cases and other change.
- G.        Old business (continued hearings, additional old business).
- H.        New business (new hearings, additional new business).
- I.        Adoption of resolutions.
- J.        Public comments and questions.
- K.        Closed session, if necessary.
- L.        Adjournment.

**3.5**        **Parliamentary Procedure.** Roberts Rules of Order, latest edition, shall be followed whenever a particular procedure or practice is not contemplated by these rules.

#### **Section 4 - Applications and Hearings.**

**4.1**        **Receipt of Application for Development and Zoning.** Upon receipt of a complete historic landmark project review application and related materials from the Planning Board on development applications which affect a historic landmark or an improvement within a historic district, the Commission will schedule the matter for a hearing, and provide advice to the Board by written report and may appoint a member of the Commission to provide testimony at the hearing on the application before the said Board.

**4.2**        **Receipt of Application for Building Permits and Alterations.** Applications that are referred to the Commission by the Construction Code Official or the Planning Board shall be received and the matter will be placed on the agenda for review at its next regularly scheduled meeting. Certificate of Appropriateness (COA) applications should be received by the Historic Preservation Commission (HPC) at least two weeks prior to the regularly scheduled monthly Commission meeting to ensure that the application is considered for placement on the meeting's agenda.

Applicants shall provide sufficient copies of all materials for all members of the Commission including alternates. The Commission shall issue a Certificate of Appropriateness or a Certificate of Minor Work within forty-five days of said referral. Failure to issue a certificate or denial shall be deemed to constitute a report in favor of issuance of the permit and without recommendation of conditions to the permit. An applicant may waive this time limit in order to allow the applicant to present any additional information requested by the Commission.

- 4.3 **Voting Procedure.** All motions shall require a second. The Chair shall allow discussion on any motion made and duly seconded. All votes shall be taken by roll call and the vote and name of the member casting the vote shall be recorded in the minutes. Unless otherwise provided herein or under prevailing law, any action may be authorized by a majority vote of the members present at such meeting.
- 4.4 **Abstentions.** Abstentions are disfavored except for good cause. An abstention shall be regarded as an assent to the vote of the majority. Thus, if the majority of those voting would affirm a measure, abstentions would be counted towards affirmants; if the majority would defeat a measure, abstentions will be counted toward defeat. A disqualified member shall not be counted as an abstention and shall, instead, remove himself or herself from the panel and not be involved in the consideration of the application. If the Commission is evenly split in its decision, no majority exists with whom an abstaining member can be said to vote and accordingly abstentions shall not be assigned to either block. A tie vote shall defeat an application, and abstentions shall not be construed to approve an application; nor shall abstentions be used to create a tie.
- 4.5 **Voting Eligibility, Review of Record.** When any hearing before the Commission has been continued, a member of the Commission who is absent for one or more hearing sessions shall be eligible to vote on the matter upon which the hearing is conducted notwithstanding the member's prior absence provided that such member certifies in writing to the Commission that he or she has read a transcript or listened to a recording of the entire session for which he or she was absent. This Rule shall not be construed as authorizing any hearing to be held whenever less than a quorum of a Commission is present.
- 4.6 **Memorializing Resolution.** After a decision has been reached by the Commission, the Commission's findings of fact and conclusions shall be embodied in the form of a written resolution. When the Commission votes to adopt a resolution, the findings and conclusions set forth in the resolution become the findings and conclusions of the Commission. It shall be immaterial that at the time of voting certain Commission members may have given other reasons or discussed matters not addressed in the resolution; nor shall it be necessary that commission members articulate particular reasons for reaching a decision at all, it being sufficient that the application be either approved or disapproved by a voice vote and that thereafter a memorializing resolution is adopted. The Commission Secretary shall prepare the resolution in such a way as to give the greatest possible support to the decision which has been made by the Commission. Once the resolution has been prepared and has been voted on favorably by the members of the Commission, it shall become a memorializing resolution of the decision of the Commission.
- 4.7 **Distribution of Resolution.** A copy of the Commission's resolution shall be furnished to the applicant and his or her representative within ten (10) days of the date of the

Commission's decision. The resolution shall additionally be distributed to the Board Secretary of the Planning Board and to the Construction Code Official.

### **Alternate Members.**

- 5.1 **Designation.** There shall be two (2) alternate members of the Commission appointed as "Alternate #1" and "Alternate #2", respectively, and each alternate shall retain said designation during the term for which he or she was appointed.
- 5.2 **Appointment of Alternate to Serve on Case.** During the absence or disqualification of any regular member, the Chair shall recognize one of the alternate members to serve in the place of said regular member. In the event that a choice must be made as to which alternate member is to vote, Alternate #1 shall vote.
- 5.3 **Alternate to Serve Until Final Disposition.** In the event of disqualification of a regular member for any hearing or matter, an alternate member who has been designated to sit in place of a regular member and who has participated in such hearing or matter shall continue to act in the place of such regular member until the final disposition of said matter.
- 5.4 **Alternate Not to Serve at Adjourned or Continued Hearing Unless Present at Prior Hearings.** When a member has been present and has participated in the first hearing on any matter, no alternate member shall be designated to serve during the absence of such member during any adjourned or continued hearing or hearings on the same matter unless said alternate member was present at such first hearing or any prior adjourned or continued hearing on such matter.
- 5.5 **Rights and Privileges.** An alternate member who has been designated to serve in the place of an absent or disqualified member shall, during the period of service, enjoy all of the rights and privileges and shall be subject to all of the duties, responsibilities and disabilities pertaining to members if the alternate member is eligible in all pertinent respects, provided, however, that no alternate member shall be eligible to serve as Chair or Vice Chair of the Commission.
- 5.6 **Participation in Discussions; Voting.** Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member.

### **Disqualification for Interest.**

- 6.1 **Disqualification Generally.** No member of the Commission shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. The decision as to whether a particular interest is sufficient to disqualify shall depend on the facts and circumstances of the particular case. The tests shall be whether the circumstances could reasonably be interpreted to show that they had the likely capacity to tempt the Commission member to depart from his or her sworn public duty.
- 6.2 **Local Government Ethics Law.** The members of the Commission shall comply with and be bound by the provisions of the local Government Ethics Law, N.J.S. 40A:9-22.1 et seq.

and shall annually file a statement as prepared by the local Finance Board and the Division of Local Government Services, Department of Community Affairs.

- 6.3 **Removal.** Any member having been deemed or having deemed himself or herself disqualified in any matter shall not sit with the Commission to participate in the consideration of such matter. The nature of any such disqualification shall be disclosed at the time of recusal unless doing so would constitute an unwarranted invasion of the individual privacy that could adversely affect the public interest.
- 6.4 **Disclosure of Possible Conflicts; Waiver by Parties.** Where conflict is only possible and not actual by virtue of involving, either directly or indirectly, any personal or financial interest, such conflict need not necessarily result in a disqualification but should be disclosed. The Commission attorney shall be consulted in each such case when deemed necessary. Whenever the Commission is called upon to waive a potential conflict, the affected Commission member shall disclose the nature of the relationship and shall satisfy the Commission that the relationship would not in any way influence his or her decision.
- 6.5 **Remedy.** When a member fails to disqualify himself or herself where the circumstances require disqualification, any interested party, including a Commission member, may move the Commission for an Order or determination that such member is or was disqualified to act and may, even after decision, seek the vacation of the decision and a re-hearing or other appropriate relief. The motion shall contain a statement of the facts upon which it is based, and the Commission may thereupon hold a hearing on the matter or take whatever action it may deem appropriate.

### **Attendance.**

- 7.1 **Determination of Vacancy for Excessive Absences.** The position of any member or alternate member shall be deemed vacant whenever the member, without being excused by a majority of the authorized members of the Commission, fails to attend and participate at meetings of the Commission for a period of four consecutive meetings, provided that the Commission shall notify the Mayor and City Commissioners in writing of such determination. In the event of such notice, the Mayor shall forthwith fill the vacancy for the unexpired term in a manner prescribed by law. This rule shall be automatically amended by operation of law in the event that the above standards are made more strict pursuant to amendment henceforth of N.J.S. 40A:9-12.1 or other relevant prevailing law, in which event the language of this rule shall be deemed substituted by the language of such law.

### **Committees.**

- 8.1 **Committees.** All committees may be established by a vote of the majority of the full membership of the Commission. The Chair shall appoint the members of such committee, who shall serve for a term to be determined by the Commission when it acts to establish such committee. Committees shall not be constituted of more than three members of the Commission members.

### **Public Hearings.**

- 9.1 **Representation of Parties.** Any owner or owners and all persons having a legal and equitable interest in any property which has been proposed for designation, or is designated as a local landmark, or for which an application for a building permit, site plan or

subdivision has been made to the municipality, may appear in person or be represented by an authorized agent or attorney at any public hearing scheduled by the Chesterfield Township Historic Preservation Commission.

**9.2**      **Order of Procedure.**    The order of procedure at all public hearings of the Chesterfield Township Historic Preservation Commission shall be as follows:

- A.      Opening of the hearing by the Chairperson;
  - B.      Incorporation in the record of the Notice of Hearing, in accordance with the Open Public Meetings Act of the State of New Jersey;
  - C.      Statement by the Chairperson summarizing the items on the agenda for the hearing;
  - D.      Approval of minutes of previous hearing;
  - E.      Review and approval of resolutions memorializing decisions reached on applications at previous hearings;
  - F.      Applications that were heard previously by the Commission and carried to the next hearing date shall be heard under “Old Business”;
  - G.      Applications not previously heard by the Commission shall be heard under “New Business”;
- 1)      Upon calling the case of a new application, the applicant, or the authorized agent or attorney, shall indicate to the Commission who will represent the applicant at the hearing and who will offer testimony regarding that application. If the applicant is a corporation or LLC the applicant must be represented by an attorney.
  - 2)      An opening statement will be made by the Chairperson of the Commission regarding the application, specifically what documents and evidence have been submitted to the Commission prior to the hearing date.
  - 3)      An opening statement will be made by the owner, authorized agent or attorney representing the applicant, setting forth the overall intent of the proposed activities to be undertaken on the property in question.
  - 4)      Following the opening statement, presentations will be made by the identified witnesses and evidence will be given in support of the proposed activities that directly relate to the property which is the subject of the hearing. Documents and other physical evidence that will be submitted to the Commission shall be appropriately designated by the Commission Secretary, using a consecutive numbering system.
  - 5)      The opportunity to cross-examine such witnesses as may appear in support of the application shall be offered first to members of the public attending the hearing, and then to members of the Commission.
  - 6)      Following the presentation of evidence in support of the application, and the cross-examination of any witnesses, statements, if any, of other interested persons, either

for or against the proposed activities, will be heard by the Commission. Such statements shall be limited to such length of time as the Commission shall designate.

- 7) Following the submission of statements by other parties, relating to the proposed activities, the applicant, authorized agent or attorney for the applicant, shall deliver an oral summation to the Commission.
- 8) Following the presentation of the oral summation, the Commission shall enter into deliberations regarding the testimony offered, evidence submitted, and any issues raised by the public or the Commission members relating to the activities proposed to be undertaken by the applicant. Based upon these deliberations, the Commission shall render a decision either approving or denying the application. For those applications that require Planning Board approval, the Commission shall make written recommendations to the Planning Board to approve or deny the application based on the hearing record. In the case of approval, conditions for that approval may be made as a part of the record. In either case, the Commission shall, at the following meeting, pass a resolution memorializing its decision and setting forth the testimony offered, evidence entered in the record, findings of fact, and the conclusions reached on the application.
- 9) Following the foregoing the hearing will be closed.

### 9.3

#### **Witnesses.**

A. **Testimony Under Oath or Affirmation.** All testimony offered by witnesses shall be given under oath or affirmation and said testimony may be given by question and answer method or, at the Chairperson's discretion, in statement form. All testimony or statements shall be limited to the particular matter under consideration.

B. **Expert Witnesses.** The Commission may retain consultants and experts to assist in the review of an application, with the fees and costs to be paid from the escrow account posted by the applicant with the Planning Board. If a witness is going to present testimony in the capacity as an expert in a specific field, the Commission shall pre-qualify the witness regarding their credentials.

### 9.4

**Exhibits.** Exhibits shall be marked for identification and shall be offered in an orderly fashion. They shall be made available for examination by any and all parties of interest. Exhibits or copies of exhibits certified as true copies shall be made a part of the record. Leave to file post-hearing documents or information may be sought at the hearing, or thereafter in writing, which may be granted by the Chairperson. In the event leave to file post-hearing documents or information is granted, copies shall be served upon interested parties or representatives in person, or by U.S. mail, postage fee paid, and by certified return receipt, together with a signed statement that this rule has been complied with, which shall be attached to, or shall accompany such documents submitted.

### 9.5

**Evidence.** Hearings shall be conducted in such a manner as shall result in a just and lawful determination of the relevant facts and applicable laws and regulations as promptly as circumstances shall permit. The Commission shall make determinations as to the relevance and materiality of evidence. The Commission may require a preliminary statement of the nature of the evidence proposed to be elicited from any witness.



- 9.6 **Continuances of Hearing.** Continuances of hearing shall be granted upon application made in conformity with the provisions and within the forty-five (45) day period of time set forth in the Historic Preservation Ordinance. Application for continuation of a hearing shall be made by the applicant, authorized agent or attorney representing the applicant, based upon the need to have additional time to sufficiently present evidence offered by witnesses and exhibits submitted to the Commission. Additionally, an application for a continuation of hearing shall be considered by the Commission if the Commission is found to need additional time in which to conduct the deliberations regarding the evidence offered and exhibits submitted by the applicant. Applications for continuation of hearing shall be granted solely at the discretion of the Commission hearing the case. Should the Commission request of the applicant a continuation of the hearing, then the date of the continuance shall generally be to the end of the month of the Commission meeting when the application will again be considered. In the event that an applicant will not grant or the Commission cannot obtain a written extension from the applicant to continue the hearing beyond forty-five (45) days, the Commission shall take action to approve or deny the application in accordance with the Municipal Land Use Law. The Commission may deny an application without prejudice affording the applicant an opportunity to reappear before the Commission.
- 9.7 **Transcript of Hearing.** Any party may arrange for the attendance at a hearing of a duly qualified Court Reporter who shall be in his/her place, prepared to record the proceedings, when the hearing is called to order. Copies of the minutes or transcripts of the Commission proceedings may also be secured from the Chesterfield Township Clerk upon payment of the costs and reasonable handling charges, as established by the municipality.
- 9.8 **Briefs and Oral Arguments.** The Commission may request the filing of briefs or oral argument, or both, at the conclusion of the hearing or thereafter, on matters of law or fact. Copies thereof, and replies thereto, if requested, shall be served upon all other parties. A signed original and ten (10) confirmed copies shall be filed with the Commission.
- 9.9 **Depositions.** The Historic Preservation Commission may authorize the taking of depositions or other discovery either upon its motion, or upon good cause shown, as nearly applicable in accordance with the procedure set forth in the rules promulgated by the New Jersey Supreme Court.
- 9.10 **Special Meetings.** Under certain circumstances, the Commission may determine that a special meeting can be called to hear an application. If such a special meeting is convened at the request of the applicant, then the applicant shall bear all of the expenses for such a special meeting including but not limited to the preparation of minutes. The Secretary of the Commission shall give the appropriate required legal notice, to the designated papers of record, at least forty-eight (48) hours prior to the date scheduled for the special meeting.
- 9.11 **Final Dispositions.** Final disposition of any matter subject to public hearing before the Chesterfield Township Historic Preservation Commission shall be in accordance with the applicable provisions contained within the Historic Preservation Ordinance of Chesterfield Township. Copies of said final determinations shall be distributed in conformity with the provisions of said ordinance. If the vote taken on a specific application results in a tie, said vote will be deemed equivalent to a negative vote of the proposition subject to vote, and a resolution shall be formally entered into the record noting said fact.