Technical Panel

Atlanta City Code Chapter 74 Article VII
Riparian Buffer Requirements

Procedural Rules

ADOPTED: October 14, 2020
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1. **Introduction**

Section 74-306 of the City Code requires the Panel to develop these Rules. The Rules have been adopted to facilitate the Panel’s decision making as it relates to the review and grant of authorized encroachments within the City’s riparian buffers.

2. **Definitions and Interpretation**

2.1 **Definitions**

(a) **Application** means an application for an authorized encroachment made pursuant to section 74-308 of the City Code.

(b) **City** means the City of Atlanta, Georgia.

(c) **City Code** means the Atlanta City Code.

(d) **Commissioner** means the commissioner of the Department.

(e) **Department** means the Department of Watershed Management, a department of the City.

(f) **Georgia Code** means the Official Code of Georgia Annotated.

(g) **Member** means any member of the Panel appointed pursuant to section 74-307 of the City Code.

(h) **Panel** means the City’s Technical Panel established by section 74-306 of the City Code.

(i) **Rules** means these procedural rules as adopted by the Panel.

2.2 **Interpretation**

In these Rules unless the context clearly indicates otherwise:

(a) a reference to legislation or a legislative provision includes any modification or substitution of that legislation or legislative provision;

(b) a reference to a body, authority or department which ceases to exist is a reference to either a body, authority or department having substantially the same objects as the named body, authority or department;

(c) the section headings and the table of contents are inserted for convenience only and do not form part of these Rules;

(d) any appendices, schedules, exhibits or annexures form part of these Rules;

(e) including and includes are not words of limitation;

(f) a word that is derived from a defined word has a corresponding meaning;

(g) the singular includes the plural and vice-versa;

(h) words importing one gender include all genders; and

(i) a reference to a thing includes each part of that thing.
3. **Authority of the Panel**

(a) Section 74-309 of the City Code requires the Panel to conduct a technical review of Applications. At the conclusion of the technical review, the Panel may make one of the following determinations:

(i) Request modifications to the Application; or

(ii) Notify the applicant that the technical review is complete and that it may proceed with public notice as required by section 74-310 of the City Code, or

(iii) Deny the Application.

(b) Section 74-311 of the City Code requires the Panel to determine whether public notice was completed pursuant to section 74-310 of the City Code.

(c) Section 74-311 of the City Code requires the Panel to issue a determination with respect to Applications after public notice. The Panel may make one of the following determinations:

(i) Issue an authorized encroachment as requested in the Application; or

(ii) Issue an authorized encroachment with written, site-specific conditions necessary to ensure conformity to the requirements and stated intent of Chapter 74 Article VII of the City Code; or

(iii) Deny the Application.

(d) The Panel’s scope of review and powers to determine Applications is limited by the City Code and the Panel cannot make policy decisions.

(e) The Panel may adopt guidelines or templates for administrative purposes and to assist the Panel with the exercise of its functions.

4. **The Panel**

4.1 **Composition**

(a) Members are appointed by the Commissioner pursuant to section 74-307 of the City Code.

(b) The Panel consists of at least three staff professionals from the Department certified by the Georgia Soil and Water Conservation Commission pursuant to section 12-7-19 of the Georgia Code in the field of pollution, erosion, and sedimentation control at the plan reviewer level (Level II).

(c) All Members must meet the qualifications as stated in section 74-307 of the City Code.

(d) Members may be removed from the Panel in accordance with the City Charter and/or the City Code.

4.2 **Term of Members**

Members are appointed for two-year terms pursuant to section 74-307 of the City Code.
4.3 **Term Limits**

Terms are renewable by the Commissioner pursuant to section 74-307 of the City Code and the City Code does not provide for any term limits.

4.4 **Vacancies**

The City Code does not address vacancies, however any vacancy may be filled by an appointment pursuant to section 74-307 of the City Code.

5. **Oath**

Section 2-1851 of the City Code requires Members to execute and file with the Municipal Clerk an oath or affirmation in the following form.

“I swear (or affirm) that I will faithfully and impartially perform the duties imposed upon me by reason of my appointment as an officer or member of the Technical Panel. I have not, in order to influence, my appointment to this position, directly or indirectly, expressly or by implication, promised my vote or support to any person. In all things pertaining to my position, I will be governed by what is my conviction for the public good. I further swear that I will uphold and support the Constitution and laws of the United States, of the State of Georgia and the City of Atlanta. I further swear that I will uphold and support the Ethics Code of the City of Atlanta.”

6. **The Chairperson and Vice-Chairperson**

6.1 **Election of the Chairperson and Vice-Chairperson**

(a) The Panel must elect a Chairperson and Vice-Chairperson at its first meeting each calendar year.

(b) Members may nominate themselves for either position.

(c) A Member is elected as the Chairperson and Vice-Chairperson by majority vote.

(d) If the Panel does not conduct an election, where the Member previously serving as the Chairperson or Vice-Chairperson remains on, or has been reappointed to the Panel, that Member may continue to serve in that position.

6.2 **Duties of the Chairperson**

(a) The Chairperson is the designated facilitator for all meetings and executive sessions of the Panel and may participate in the deliberations and decisions of the Panel.

(b) The Chairperson is responsible for:

(i) The orderly conduct of all Panel meetings, including executive sessions;

(ii) Ensuring that all meetings are conducted according to the most current version of Robert’s Rules of Order;

(iii) Ensuring that the Panel complies with all policies and procedures;

(iv) Ensuring that new Members are aware, and have copies, of the applicable City Code and these Rules; and

(v) Performing such other tasks as are necessary for such meetings and executive sessions, including other tasks as required by these Rules.
(c) The Chairperson signs official documents that require the signature of the Panel including any reports or determinations.

(d) The Chairperson may serve as a spokesperson for the Panel. The Chairperson may designate another Member to comment publicly if comments are deemed by the Commissioner to be necessary and appropriate.

6.3 Duties of the Vice-Chairperson

(a) The Vice-Chairperson assists the Chairperson in all matters within the Chairperson’s responsibility and assumes any other duties delegated by the Chairperson.

(b) The Vice-Chairperson will be called to act when the Chairperson cannot act.

(c) When the Vice-Chairperson acts in the stead of the Chairperson, the Vice-Chairperson performs the duties of the Chairperson and, when so acting, has all the powers of the Chairperson.

7. Duties of All Members

7.1 General

(a) Members are required to attend all Panel meetings and are expected to adhere to meeting beginning and end times. Members that need to be absent from a meeting, arrive late to a meeting, or leave early from a meeting, must notify the Chairperson before such meeting occurs.

(b) Members must be well informed on issues and agenda items and seek legal guidance through the Chairperson, when needed.

(c) Members should contribute skills, knowledge, and experience when appropriate.

(d) Members must listen respectfully to others’ points of view and participate in meetings and executive sessions in a professional and courteous manner to those in attendance and to fellow Members.

(e) Members must not discriminate against other Members or applicants.

(f) Members must vote on all questions properly put for a vote before the Panel. Abstention from voting is not allowed except as specified in Section 7.2 below or as otherwise required by law.

7.2 Conflicts of Interest

(a) Members must act in a manner that promotes confidence in the integrity and impartiality of the authorized encroachment determination process. A conflict of interest or the appearance of a conflict of interest can arise from a situation that reasonably raises a question of a Member’s impartiality, such as a Member’s involvement with the subject matter of an Application, or from a past or present relationship between a Member and an applicant or the owner of the land to which the Application relates.

(b) Members should direct complaints or questions of potential impartiality to the City’s Ethics Division of the Office of the Inspector General, and to the Commissioner. Applicants and members of the public are encouraged to do the same.
(c) Members must comply with the ethical standards set out in sections 2-801 et. seq. of the City Code.

(d) Where a Member believes that a conflict or potential conflict of interest exists, the affected Member must indicate that to the Panel, briefly state the nature of the conflict and thereafter abstain from any involvement with the relevant Application including reviewing plans, commenting, and voting on the Application.

8. Meetings

8.1 Pre-Meeting Procedures

The Chairperson is responsible for:

(a) Preparing and publishing the meeting schedule for regular meetings at least one week prior to each meeting indicating the time, place and dates of the meetings pursuant to section 50-14-1(d)(1) of the Georgia Code by maintaining such notice in a conspicuous place available to the public at the regular place of Panel meetings and on the Panel's website, if any;

(b) Providing the requisite notice for meetings, other than regularly scheduled meetings, pursuant to section 50-14-1(d)(2) or (3) of the Georgia Code;

(c) Preparing and making available the agenda for each meeting within the two weeks prior to each meeting pursuant to section 50-14-1(e)(1) of the Georgia Code by posting the agenda at the meeting site. The agenda may also be posted on the Panel's website and provided via email to the relevant NPU Chair;

(d) Ensuring that each applicant is notified of when their Application will be considered at a Panel meeting; and

(e) Canceling or postponing any regularly scheduled meeting and where possible, publishing the cancellation or postponement no later than 24 hours prior to the meeting and publishing notice of such cancellation or postponement in a conspicuous place available to the public at the regular place of Panel meetings and on the Panel's website.

8.2 Regular Meetings

(a) The Panel is required by section 74-307 to meet at least on a monthly basis and may meet as necessary to conduct its business.

(b) The most current edition of Robert’s Rules of Order governs all meetings of the Panel, unless otherwise provided for in these procedures.

(c) Regular meetings are held for one or more of the following purposes:

(i) Conducting the technical review pursuant to section 74-309 of the City Code.

(ii) Determining under section 74-311 of the City Code whether public notice was completed pursuant to section 74-310 of the City Code.

(iii) Issuing a determination with respect to Applications after public notice pursuant to section 74-311 of the City Code.

(d) The Panel requires a quorum of four Members to decide all matters.
Regular meetings may be conducted via teleconference pursuant to section 50-14-1(g) of the Georgia Code.

There is no public comment during meetings. Public participation is provided through the public notice provisions of section 74-310 of the City Code.

The Panel may audio or video record the meeting or produce minutes in written form.

The Panel may call an executive session during a meeting for any purpose authorized by section 50-14-3 of the Georgia Code and must follow the requirements of 50-14-4 of the Georgia Code.

8.3 Special Meetings

(a) The Panel may call a meeting, other than a regularly scheduled meeting, pursuant to section 50-14-1(d)(2) or (3) of the Georgia Code (“Special Meeting”) for the purpose of conducting any necessary business.

(b) All of the requirements for regular meetings set out in section 8.2 above, apply to Special Meetings.

8.4 Voting

(a) Consistent with section 3-401(II.)(c)(2) of the City Charter, when a quorum is achieved, the minimum requirement for official Panel action shall be the affirmative vote of the majority of the number of Members constituting a quorum.

(b) Consistent with section 3-401(II.)(c)(2) of the City Charter, whenever a quorum is not achieved, the Panel may receive reports, information, and/or presentations, but it cannot take official action.

(c) The Member presiding over the meeting may vote on all matters, subject to any conflict of interest.

(d) For meetings conducted via teleconference, all votes shall be taken by roll call.

(e) For meetings conducted via teleconference, the presence of a quorum shall be established by audible roll call at the beginning of the meeting. Thereafter, the continued presence of a quorum shall be determined by the online list of participating Board members, unless any member demands a quorum count by audible roll call. Such a demand may be made following any vote for which the announced totals add to less than a quorum.

8.5 Post-Hearing Actions

(a) When the Panel has reached its decision by vote, it may complete any administrative documentation necessary to record and communicate its decisions.

(b) The Chairperson is responsible for preparing and making available for public inspection the summary of the subjects acted on and a summary of those Members present at each meeting within two business days of the adjournment of each meeting, pursuant to section 50-14-1(e)(2)(A) of the Georgia Code. The summary may be made publicly available by posting at the meeting site or on the Panel's website.

(c) The Chairperson is responsible for ensuring that all recordings of meetings or written meeting minutes from the immediate past meeting, once approved at the subsequent
regular meeting, must be made available for public inspection immediately following the regular meeting at which those minutes were approved, pursuant to section 50-14-1(e)(2)(B) of the Georgia Code. Recordings of meetings or written meeting minutes may be made publicly available by posting on the Panel's website.

9. Appeals

9.1 Jurisdiction and Process
Aggrieved or adversely affected parties may file an appeal with the Commissioner pursuant to, and in accordance with the process set out in section 74-313(a) of the City Code.

9.2 Provision of Records
The Chairperson must provide the complete record that supports a Panel decision to the Commissioner for the purpose of any appeal pursuant to section 74-313(a) of the City Code.

9.3 Further Appeal
Any appeal from a decision of the Commissioner is to the Superior Court of the county where the subject property is located pursuant to section 74-313(b) of the City Code.

10. Relationship to Other Laws and Rules
(a) If any Rule conflicts with the Georgia Code or the City Code, the Georgia Code or City Code prevail to the extent of any conflict.
(b) If any Rule conflicts with the Robert’s Rules of Order, these Rules prevail to the extent of any conflict.

11. Amendments to the Rules
Any amendments to these Rules must be by a majority vote of the Panel.