

# **Charlotte Historic District Commission**

## **Rules & Procedures**

**Adopted by the Charlotte Historic District Commission June 11, 1997  
as amended through June 8, 2011**

# **Charlotte Historic District Commission Rules and Procedures**

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**I. Rules and Procedures of The Historic District Commission**

**A. Officers**

1. The officers of the Historic District Commission shall be a Chairperson, a Vice Chairman, and a Second Vice Chairperson.
2. The Chairperson shall preside at all meetings, appoint all standing and temporary committees, make assignments to design review committee meetings, have the right to vote, and may call special or emergency meetings of the Commission. The Chairperson or his or her designee is authorized to sign Certificates of Appropriateness.
3. The Vice Chairperson shall preside at meetings in the absence of the Chairperson, and may call special or emergency meetings of the Commission. In the absence of both the Chairperson and the Vice Chairperson, the Second Vice Chair shall preside.
4. At the first regular meeting in June, the Commission shall elect officers for a term of one year. Officers shall take office the following July 1. If an office becomes vacant during a term, the Commission shall elect one of its members to serve the remaining portion of the unexpired term. Officers shall be eligible for reelection.

**B. Meetings**

1. The regular meeting date of the Commission shall be the second Wednesday of each month at 3:00 p.m.
2. Special meetings of the Commission may be called by the Chairperson, Vice Chairpersons, or, with the consent of a majority of the members, the Commission's staff. Notices of all special meetings shall be communicated to all members of the Commission at least forty-eight hours prior to the time of the meeting. Only those matters specified in the call may be considered.

**C. Quorum**

In all circumstances, a majority of the members of the Commission, not counting vacancies, shall constitute a quorum for the purpose of conducting business.

**D. Attendance**

The Commission's attendance policy shall be the same as the City Council's attendance policy for boards and commissions.

**E. Voting**

1. No member shall be excused from voting except in the case of conflict of interest or predisposition. In all other cases, a failure to vote by a member who is present shall be recorded as an affirmative vote.
2. An affirmative vote equal to a majority of unexcused members present shall be required to take any action.
3. A member must be present for the hearing on an Application for a Certificate of Appropriateness in order to vote on that Application.

**F. Conflicts of Interests and Predisposition**

1. No member shall vote on or participate in the consideration of a matter in which he or she has a conflict of interest, or has the appearance of a conflict of interest. For purpose of this section, and by way of illustration but not limitation, a member has a conflict of interest if he or she may be impacted financially, either directly or indirectly, from a decision on the pending matter, if the member owns or leases property that abuts or is directly opposite the street or alley frontage of the property that is the subject of an application, or if the member has a familial or personal relationship with an applicant that is of a type that may color the member's judgment.
2. When considering an application for a Certificate of Appropriateness, the Commission is acting in a quasi-judicial capacity. Due process requires that a quasi-judicial decision be made by unbiased and non-predisposed decision makers on evidence appearing in the record. To this end, a member shall not form or communicate a predisposition on any application prior to the consideration of the application at a Commission meeting. For purposes of this section, discussion of an application in a design review committee meeting shall not constitute a violation of this section provided that the member does not indicate that he or she will support or oppose a particular proposal.

3. A member who determines that he or she has a conflict of interest or predisposition shall declare the existence and nature of the conflict or predisposition prior to consideration of the matter and shall be excused from further consideration of the matter.
4. A member who believes that he or she may have a conflict of interest shall declare the possible conflict and ask for a determination by the Commission. A majority vote of the Commission shall determine whether or not a conflict of interest exists. The member who may have the conflict of interest shall be excused from voting on the question.
5. A challenge of the existence of a conflict of interest or predisposition may be made by a member of the Commission or by any interested person. Such a challenge shall be considered by the Commission and the Commission shall determine by majority vote whether a conflict of interest or predisposition exists. The member who allegedly has a conflict of interest or is predisposed shall be excused from voting on the question.

## **II. Consideration of Applications for Certificates of Appropriateness**

### **A. Application Review Process & Timeline**

1. Applications will be due to the Commission office according to the annual schedule available at the Commission office.
2. The application deadline cannot be waived except in the following circumstances:
  - a. An approved project is under construction, and a design change is necessary to complete construction, or
  - b. There is a demonstrable life/safety consideration that requires immediate attention.
3. All information and materials necessary to constitute a complete application are due to the office no later than the date indicated on the annually published *Commission Deadline and Meeting Schedule*. Failure to provide such materials by this date may result in the project not being placed on the Commission agenda for consideration.

## **B. Submission Requirements**

1. The following materials will constitute a complete application for a Certificate of Appropriateness. The Historic District Commission will not render a decision on applications found to be incomplete.

- a. A completed, signed application form
- b. Scaled, detailed drawings, including a site plan if applicable.

Preferably, drawings and supporting documentation will be submitted electronically. If paper drawings are submitted, three copies are required. No drawings should exceed 11 x 17 in size.

2. Additional materials may be required as needed to fully document a project proposal. These materials, which will be determined by the Commission Staff, may include:

- Photographs of site and existing conditions
- Detailed elevations including notes, dimensions and building materials showing both existing and proposed conditions
- Site plan with dimensions showing both existing and proposed conditions, including buildings, additions, sidewalks, drives, trees, property lines, and fences/walls where applicable
- Streetscape photographs showing the context of the proposed project by plugging it into the streetscape
- Indication of proposed tree removal and/or tree planting
- Landscape plans indicating major plant materials and site features. Indicate significant changes of grade
- Indication of any planned demolition.
- Material samples where applicable
- Other documentation as indicated by HDC staff

**C. Number of Applications for Certificates of Appropriateness Per Agenda**

1. The number of Applications for Certificates of Appropriateness placed on the regular monthly agenda for Historic District Commission meetings shall not exceed sixteen.
2. This limit shall not include applications deferred from earlier agendas.

**D. Design Review Committee**

1. The purpose and authority of the Design Review Committee will be determined by the Commission or by the Chair upon appointment of the Committee.
2. The Design Review Committee of the Historic District Commission will meet according to the call of the Commission Chair.
3. It is recommended that a Design Review Committee consist of one Commission officer, one design professional, and one lay member.
4. In the case of a conceptual approval on a project proposal by the full Historic District Commission, the Commission may authorize a Design Review Committee to issue a final approval for a project.
5. Any revised plans are due into the Commission office as directed by the Committee or by the Commission staff.

**E. Historic District Commission Hearing Procedure**

The Historic District Commission will review each Application for a Certificate of Appropriateness according to the following procedure:

1. **Presentation of Application by Commission Staff**
  - a. Presentation on Property and Outline of Proposal
  - b. Description of Project Proposal
  - c. Comment by Staff on Effect of the Project on the Property and the District's Integrity
  - d. Recommendations and/or Suggestions
2. **Presentation by Applicant**

**3. Comments by Other Interested Parties**

- a. Comments by the Public
- b. Synopsis of Comments Received by Commission Staff
- c. Response to other Parties by Applicant

**4. Consideration by the Commission**

- a. Questions by the Commission to Applicant, Staff and Others
- b. Discussion and Deliberation by the Commission
- c. Adoption of Findings of Fact by the Commission
- d. Consideration of a Motion for Approval, Deferral or Denial
- e. Final Vote by the Commission

**F. Decisions Of The Historic District Commission**

The final vote of the Commission on a Certificate of Appropriateness Application will lead to one of the following results:

**1. Approval**

An approval is valid for six months under state and local law. If a building permit is required, then the permit must be obtained within six months of the issuance date of the Certificate of Appropriateness. If a building permit is not required, then the work must begin within six months of the issuance of the Certificate of Appropriateness. Approvals can be renewed as provided for by law.



Three types of approvals are possible:

**a. Approved as Submitted:**

The project proposal is approved as presented.

**b. Approved with Conditions:**

The project is approved with conditions placed on the approval by the Commission.

**c. Approved in Concept:**

The overall design concept for the project is approved, but the final detailed plans must be brought back to the full Commission, a Design Review Committee, or the HDC staff (as determined by the Commission) at a later date for final approval. An Approval in Concept should include specific direction to an applicant on what is required for a final approval to be issued.

**2. Deferral**

The decision on a proposal is deferred to the next regular Commission meeting. Deferrals may include a recommendation that the project go before the Design Review Committee.

**3. Denial**

**G. Resubmission Deadlines**

No application denied by the Commission can be resubmitted for a period of six months unless one of the following circumstances applies:

1. The project proposal has been substantially redesigned, or
2. There has been a substantial change of circumstance affecting the property.

## **H. Appeals of Decisions of the Commission**

1. Any party aggrieved by a decision of the Charlotte Historic District Commission regarding the issuance or denial of a Certificate of Appropriateness has the right to appeal the Commission's decision to the Charlotte Zoning Board of Adjustment, as outlined in Section 10.213 of the Charlotte Zoning Ordinance. An appeal must be filed sixty days from the date of the issuance or denial of the Certificate.
2. The ZBA will make a decision on the action of the Historic District Commission based on the record of the Commission meeting. The ZBA cannot consider information or testimony that was not available to the Commission at the Commission's meeting. The responsibility of the Zoning Board of Adjustment is to review the record of the meeting and determine if the members of the Historic District Commission followed proper procedure in reaching its conclusion, and that the Commission's conclusion was supported by both the evidence before the Commission and current Commission policy.
3. After a ruling by the Zoning Board of Adjustment on an appeal from the Historic District Commission, the Commission and the appellant both have the right under state and local law to file an appeal from the ZBA to the Superior Court of Mecklenburg County.

## **I. Enforcement**

There are three circumstances that can lead to the commencement of enforcement procedures against a property owner within a local historic district:

1. Work is done that requires a Certificate of Appropriateness without a Certificate being issued
2. Certificate of Appropriateness is denied by the Commission, and the project is carried out in defiance of the denial
3. Work is approved by the Commission or its staff, and is then carried out in a manner inconsistent with the approval

When one of these circumstances exists, the following procedure will be followed:

1. Commission staff shall make an effort to contact the property owner by mail, seeking voluntary compliance with the ordinance.
2. If the property owner contacts the HDC Staff and corrects the violation through established HDC procedures, no further action will be taken.

3. If compliance is not achieved by HDC Staff, the matter will be referred to the City of Charlotte Zoning Enforcement Staff. HDC Staff may consult with the Commission prior to this step if Staff feels the violation is unclear under current HDC policy.
4. HDC Staff will provide to the relevant Zoning Enforcement Supervisor the violation to be cited, and the address and owner of the property where the violation has occurred.
5. Zoning Enforcement staff will then pursue the violation through the processes outlined in Chapter 8 of the Charlotte Zoning Ordinance.
6. Should the violation be corrected through established HDC procedures, HDC Staff will notify the relevant Zoning Enforcement Supervisor to suspend or end their enforcement process on the violation in question.