

## **CHAPEL HILL HISTORIC DISTRICT COMMISSION**

### **Rules of Procedure**

(Adopted 4/14/77; Amended 5/26/77; 2/8/79; 2/22/79; 6/11/81; 9/22/83; 9/27/84; 12/14/06; 3/8/16; 5/9/2017; 4/10/2018)

#### **I. PURPOSE**

To establish procedures for processing applications for Certificates of Appropriateness for (1) any changes in the external appearance of existing structures; (2) design of new structures; and (3) for demolition of existing structures within the Chapel Hill Historic District.

#### **II. GENERAL RULES**

The Chapel Hill Historic District Commission shall be governed by the terms of the Chapel Hill Historic District Ordinance as contained in the Code of Ordinances for the Town of Chapel Hill, North Carolina and by the terms of G.S. 160A-388 and 160A-400.1 through 160A-400.14 as they may be amended or revised.

#### **III. JURISDICTION**

The Historic Districts shall be delineated on the official zoning map on file in the Office of Planning & Sustainability. As provided by the Town's Land Use Management Ordinance, a Certificate of Appropriateness is required for most development within any of the Town's historic districts.

#### **IV. MEMBERS, OFFICERS, AND DUTIES**

- A. General. The Commission shall be composed of 10 members the majority of whom shall have demonstrated special interest, experience, or education in history, or architecture. All members shall reside within the planning jurisdiction of Chapel Hill.
- B. Chairperson. A chairperson shall be elected by the voting members of the Historic District Commission. His/her term shall be for one year, and he/she may serve for no more than two consecutive terms. The Chairperson shall decide all points of order and procedure, subject to these rules, unless otherwise directed by a majority of the Commission in session at the time.
- C. Vice-Chairperson. A Vice-Chairperson shall be elected by the Commission from among its members in the same manner as the Chairperson and shall be eligible for re-election. He/she shall serve as Acting Chairperson in the absence of the Chairperson, and at such times he/she shall have the same powers and duties as the Chairperson.

- D. Deputy Vice-Chairperson. A Deputy Vice-Chairperson shall be elected by the Commission from among its members in the same manner as the Chairperson and shall be eligible for re-election. He/she shall serve as Acting Chairperson in the absence of the Chairperson and Vice-Chairperson, and at such times he/she shall have the same powers and duties as the Chairperson.
- E. Secretary. A member of the planning staff, designated by the Town Manager, shall serve as Secretary to the Commission. The Secretary, subject to the direction of the Chair of the Commission, shall prepare meeting agendas, shall keep all records, shall conduct all correspondence of the Commission, and shall generally supervise the clerical work of the Commission.
- F. Elections. The Commission shall elect officers at its second meeting following the Council's annual appointment of members to new terms. The Secretary shall notify members of elections in writing at least thirty (30) calendar days prior to the meeting at which elections are held.
- G. Terms of Appointments. Members shall be appointed to serve terms of three (3) years and until their respective successors have been appointed and qualified. Vacancies shall be filled for the unexpired term only. Members shall serve a maximum of two consecutive terms.
- H. Attendance at Meetings. Any member of the Commission who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year may be removed by the Town Council, be replaced, or reappointed by the Town Council. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Commission except that in the event of a long illness or other such cause for prolonged absence, the member may be replaced. The Secretary shall notify a member when he or she is approaching the maximum number of unexcused absences. When a member has exceeded the maximum number of unexcused absences, the Secretary shall notify the full Commission and the Town Council.
- I. Applications Involving Members. As provided by G.S.388(e)(2), no Commission member shall take part in the hearing, consideration or determination of any case in which he/she is a party or has a financial interest.
- J. No Commission member shall vote on any matter deciding an application or a request to reconsider unless he or she shall have attended the Commission's previous deliberations on such application, or shall otherwise have the approval of the Chairperson to vote on such matter. The Chairperson's approval shall be contingent on the assurance by the member that he/she has familiarized him/herself with the application and the minutes of any meetings at which the application was discussed.

- K. No Commission member shall in any manner discuss any application with any parties prior to the Commission's deliberations on such application, except as specified elsewhere in the Commission's Rules of Procedure or as authorized in advance by the Chairperson; provided, however, that members may seek and/or receive information pertaining to the application from any other member of the Commission or its staff prior to the hearing.
- L. Members of the Commission shall not express individual opinions on the proper judgement of any application with any persons prior to the determination of that application except in accordance with these rules. Violation of this rule shall be cause for dismissal from the Commission.
- M. Each member of the Commission shall thoroughly familiarize him/herself with all statutes, laws, and the ordinance and rules of procedure relating to the Historic District as time and circumstances permit.
- N. Members of the Commission may be removed by the Town Council for cause.

## V. MEETINGS

- A. Regular meetings of the Commission shall be held on the second Tuesday of each month at 6:30 p.m. in the Chapel Hill Town Hall. If necessary to complete business, a second monthly meeting may be held on the fourth Tuesday of the month at 6:30 p.m. in the Town Hall. Meetings may be held at some other convenient place in the Town if directed by the Chairperson in advance of the meeting.
- B. Special Meetings. Special meetings of the Commission may be called at any time by the Chairperson. At least forty-eight (48) hours notice of the time and place of special meetings shall be given, by the Secretary or by the Chairperson, to each member of the Commission and to the public.
- C. Cancellation of Meetings. Whenever there is no business for the Commission, the Chairperson may dispense with a regular meeting by giving notice to all the members not less than twenty-four (24) hours prior to the time set for the meeting.
- D. Quorum. A quorum shall consist of five (5) sitting members of the Commission. The vote of a majority of those members present shall be sufficient to decide matters before the Commission, provided a quorum is present.
- E. Conduct of Meetings.
  - (a) All meetings shall be open to the public. Except where otherwise agreed to by the Commission, the order of business at regular meetings shall be as follows: (1) reports and updates; (2) approval of minutes

- from previous meetings; (3) old business; (4) new business; (5) courtesy reviews; (6) adjournment.
- (b) The Historic District Commission pledges its respect to the citizens of Chapel Hill. The Commission asks its citizens to conduct themselves in a respectful, courteous manner, both with the Commission and with fellow citizens. Should any member of the Commission or any citizen fail to observe this public charge at any time, the Chair will ask the offending person to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chair will recess the meeting until a genuine commitment to this public charge is observed.
- F. Review Criteria. In reviewing applications for Certificates of Appropriateness the Commission shall take into account the review criteria required by State law and by Town ordinances as specified by the Commission's Design Guidelines. The Commission shall also take into account the historic and architectural significance of the structure and maps showing the historic and architectural significance of structures within the District as provided in Section 3.6 of the Land Use Management Ordinance.
- G. Consideration of Applications. Any party may appear in person or by agent or attorney at the meeting. The order of business for consideration of applications for Certificates of Appropriateness shall be as follows:
- (a) The Chairperson, or such person as he/she shall direct, shall give a preliminary statement concerning the application;
  - (b) The applicant shall present the evidence and arguments in support of his or her application.
  - (c) Persons wishing to comment on the application shall present the evidence and arguments regarding the application;
  - (d) Statements or arguments submitted by any official, commission, or department of the Town of Chapel Hill, any state agency, or any local historical, preservation of neighborhood association shall be presented as directed by the Chairman;
  - (e) The Chairperson or such person as he/she shall direct shall summarize the evidence and arguments which have been presented, giving all parties and witnesses an opportunity to make objections or corrections;
  - (f) The Commission shall thereafter proceed to deliberate whether to grant the application or to deny it;
  - (g) Testimony shall be sworn;
  - (h) Procedures may be modified by concurrence of all parties and the Commission itself; and
  - (i) Commission members should disclose any material information so

obtained prior to recessing the hearing.

The Commission may, in its discretion, view the premises and obtain additional facts concerning any application before arriving at a decision. All decisions of the Commission shall be supported by appropriate findings of fact, and, where necessary, shall be accompanied by such conditions and/or recommendations as it may determine to be reasonable under the circumstances.

In considering applications, witnesses may be called and factual evidence may be submitted, but the Commission shall not be limited to consideration of such evidence as would be admissible in a court of law.

H. Reconsideration of Applications Which Have Been Denied.

The order of business for reconsideration of applications for Certificates of Appropriateness which previously have been denied shall be as follows:

- (a) The Chairperson shall entertain a motion from a member of the Commission that the applicant be allowed to present evidence in support of the request for reconsideration. Such evidence shall be limited to that which is necessary to enable the Commission to determine whether or not there has been a substantial change in the facts, evidence or conditions relating to the application; provided, however, that the applicant shall be given the opportunity to present any other additional supporting evidence if the Commission decides to reconsider his or her application.
- (b) After receiving the evidence, the Commission shall proceed to deliberate whether or not there has been a substantial change in the facts, evidence of conditions relating to the application which would warrant reconsideration. If the Commission finds that there has been such a change, it shall thereupon treat the request as a new application received at that time, following the procedures set forth in Sections V.G. and IV for notice and deliberation.

I. Modifications of Applications. An approved or pending application for a Certificate of Appropriateness may be modified by a written request from the applicant to the Commission. Such a request shall include a description of the proposed change and shall be accompanied by elevations, plans, or sketches, where necessary. If the Commission finds that the modification constitutes a substantial change which might affect surrounding property owners, it shall request the applicant to notify affected property owners following the procedures set out in Section VI.B. before taking action on the modification. The Commission shall thereupon treat the request in the same manner as any other application as outlined in Section V.G.

J. Conflicts of Interest. No Commission member shall participate in the decision of any matter in which he or she has a personal or financial interest per G.S. 160A-388(e)(2).

- K. Abstention. No member of the Commission may be excused from voting on any matter before the Commission except in matters involving the consideration of his or her own financial interest or official conduct. In most other cases, the failure to vote by a member who is physically present or has withdrawn without being excused (preferably by a majority vote of the remaining members present) shall be recorded as an affirmative vote.
- L. Tie Votes. In the event that voting on an item being deliberated for the first time results in a tie, then the item is carried over for consideration at the next regular meeting. If that same item receives a tie vote at its second, third, fourth, etc., consideration with one or more members of the Commission absent, the item is again carried over. Should any consideration of an item, after the first consideration, result in a tie vote when all members are present (one or more excused from voting), the item is removed from the agenda as if it had never been before the Commission.

## VI. APPLICATION PROCEDURES

- A. An application must be filed in the Office of Planning and Sustainability at least 30 calendar days before the meeting date as provided in Section 3.6.2(d)(1) of the Land Use Management Ordinance. The Secretary may consent to accepting an application after the deadline provided the application request is noticed and made accessible to the public per the provisions listed in Section VI. Application Procedures, B. An application shall not be deemed filed until it has been accepted by the Secretary and deemed complete.
- B. Public notice and public accessibility of applications
1. The Secretary shall make application materials accessible to the public via the Town's website not less than ten working days prior to the meeting at which the matter is to be heard.
  2. The Secretary shall mail notices of requests for Certificates of Appropriateness, not less than ten (10) working days prior to the meeting at which the matter is to be heard, to all owners of property within:
    - a. 100 feet on all sides of the subject property for applications which involve a use by right or an existing Special Use Permit not requiring a modification;
    - b. 500 feet on all sides of the subject property for applications which involve a Special Use Permit, a modification to an existing Special Use Permit, or would require a zoning amendment because of the exterior changes being proposed.
  3. Not less than ten (10) working days prior to the meeting at which the matter is to be heard, the Secretary shall prominently display

a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

4. The Secretary shall maintain a list of individuals wishing to receive email notifications of the public meetings of the Historic District Commission. Individuals subscribing to the list shall receive one emailed notice at least ten (10) working days prior to each public meeting of the Historic District Commission alerting the subscriber that a meeting agenda has been posted to the Town's website. Individuals may subscribe to the email notice list by providing their name and email address to the Secretary to the Historic District Commission in writing along with a statement that they wish to subscribe to the Historic District Commission Meeting Email List.
  5. The time periods outlined above shall include the day of the meeting.
- C. The applicant and meeting attendees shall be given an opportunity to be heard at the meeting at which the application is presented.
- D. The Commission may make the policy in regard to applications involving new structures or extensive alterations and/or additions to existing structures that a subcommittee of the Commission shall be available to meet with representatives of the persons or organization involved in the coming application at some early stage in the design process in order to advise them informally concerning the Commission's guidelines, the nature of the area where the proposed construction is to take place, and other relevant factors. This subcommittee, collectively and individually, shall refrain from any indication of approval or disapproval, but shall not, for that reason, be barred from a reasonable discussion of the applicant's proposals. No advice or opinion given, or reported as having been given, by any member of the subcommittee at such an informal meeting shall be in any way official or binding upon the Historic District Commission at any time. Notice of the need for such a conference should be given future applicants by the Town at the earliest appropriate time.
- E. In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.
- F. As provided by Section 3.6.2(d)(4) in the Land Use Management Ordinance, the Commission must issue or deny a Certificate of Appropriateness within one hundred-eighty (180) days after acceptance of the application, except when the time limit has been extended by mutual agreement between the applicant and the Commission. Acceptance is defined to be the time at which the Secretary certifies the application to be "filed" or "accepted" based on the inclusion of all required elements and records the date of acceptance pursuant to Section 3.6.2(d)(1)(D) in the Land Use Management Ordinance.

- G. Subsequent to Commission action on an application, the Secretary shall notify the applicant of the disposition of the application, including the reasons for such action, and shall file a copy of the decision in the Office of Planning & Sustainability. If an application is denied, the Secretary shall notify the applicant of the disposition of the application, including a copy of the minutes of the meeting and written reasons for denial, by certified mail with return receipt requested.
- H. A Certificate shall be valid for 180 calendar days from date of issuance or, in the case of a Certificate for demolition, from the effective date. If the authorized work has not commenced within that period, or has been discontinued for more than 365 calendar days from the date of issuance, such Certificate shall immediately expire and the applicant shall be required to reapply.

## VII. AMENDMENTS

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than seven (7) members of the Commission, provided that such amendment shall have been first presented to the membership in writing at a regular or special meeting preceding the meeting at which the vote is taken. Whenever reference is made in these rules to any North Carolina statute, Town ordinance, or other regulation such reference shall be deemed to apply, and be made, to the corresponding section or provision of any successor or amended statute, ordinance or regulation.