

**Durham
Historic Preservation Commission**

Rules of Procedure

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Rules of Procedure

Section 1: Introduction

1.1. Purpose

To establish procedures for organizing the business of the Durham Historic Preservation Commission, hereafter referred to as the Commission, in executing its duties and responsibilities.

1.2. General

The Commission shall be governed by the terms of the Interlocal Cooperation Agreement, by the Durham Unified Development Ordinance (UDO) and by the terms of NCGS 160A, Article 19, Part 3C as they may be amended or revised. The Commission shall also be governed by these rules to the extent that they do not conflict with the law. For procedures not covered by these rules, the Commission shall follow the rules contained in Roberts Rules of Order, Revised, except that the legal requirements for Certificates of Appropriateness will supersede Roberts Rules.

Section 2: Officers

2.1. Chairperson

The Chairperson shall preside at all meetings and public hearing, make committee appointments, and decide all points of order and procedure subject to these rules unless directed otherwise by a majority of the Commission in session at that time. The Chairperson shall have the right to vote, but shall not have the right to break a tie vote in which he or she participated.

2.2. Vice Chairperson

The Vice Chairperson shall serve as acting Chairperson in the absence of the Chairperson and at such time have all the powers, duties and voting rights as the Chairperson.

2.3. Secretary

A staff member of the Durham City-County Planning Department (Planning Department) shall serve as Secretary. The Secretary, subject to the direction of the Chairperson and Commission, shall keep all records, shall conduct all correspondence of the Commission, and shall generally perform the clerical work of the Commission. The Secretary shall keep the minutes of every meeting of the Commission. The minutes shall show the record of all important facts pertaining to each meeting, every resolution acted upon by the Commission and all votes of the Commission members upon any recommendation, resolution or upon the final determination of any questions before the Commission, indicating the names of members absent or failing to vote.

2.4. Election of Officers

The Chairperson and Vice Chairperson shall be elected annually at the Commission's first meeting in January. The Chairperson and Vice Chairperson shall serve terms of one (1) year and shall be eligible for re-election. A majority of members present shall be necessary to elect officers.

2.5. Vacancy

- a. A vacancy in the office of Chairperson shall be filled by the Vice Chairperson succeeding to the office for the balance of the unexpired term.
- b. A vacancy in the office of Vice Chairperson (including a vacancy due to 2.5.a. above) shall be filled by election of a Vice Chairperson from the Commission for the balance of the unexpired term.

Section 3: Meetings

3.1. Regular Meetings

Regular meetings of the Commission shall be held on the first Tuesday of each month 8:30 am in the Committee Room, Second Floor, Durham City Hall. Regular meetings will be adjourned within two (2) hours, but may be continued past that time with a unanimous vote of members present. When the regular meeting day falls on a legal holiday, the Commission shall meet on the first available date thereafter at the same time and place.

3.2. Special Meetings

Special meetings may be called by the Chairperson, or by written request of two (2) members of the Commission submitted to the Commission or Chairperson. Written or oral notice of special meetings shall be given to all members at least forty-eight (48) hours prior to the meeting and shall state the time, place and purpose of the meeting.

3.3. Cancellation of Meetings

Whenever there is no business to come before the Commission, the Chairperson may dispense with a regular meeting by giving notice to all members not less than twenty-four (24) hours prior to the time set for the meeting.

3.4. Quorum

A quorum shall consist of five (5) members of the Commission. The number required for a quorum shall not be affected by vacancies. A member who has withdrawn from a meeting without being excused by a majority vote of the remaining members present shall be counted as present for the purpose of determining whether or not a quorum is present.

3.5. Order of Business

The order of business at regular meetings shall be as follows:

- a. Call to order;
- b. Roll call;
- c. Approval of minutes;
- d. Swearing-in of witnesses;
- e. Hearing and consideration of each case;
- f. Report from committees;
- g. Unfinished business;
- h. New business;
- i. Adjournment.

The order of business may be varied by unanimous consent of the members present.

3.6. Time Limits

- a. The Commission may limit the length of a meeting or set a time for adjournment by a concurring vote of five (5) members.
- b. The Commission may limit the time each person at a public hearing is allowed to speak by a concurring vote of five (5) members.

3.7. Open Meetings

All regular and special meetings, public hearings, records, and minutes of the Commission shall be open to the public. The City and County Clerks shall be notified of special meetings at least forty-eight (48) hours prior to the meeting.

3.8. Agenda

- a. The agenda for each regular or special meeting or public hearing shall be prepared by the Secretary of the Commission, after consultation with the Chairperson.
- b. The agenda for each meeting shall be mailed to all members no later than seven (7) days prior to the scheduled meeting or hearing, except in the case of special meetings called under Section 3.2., in which the agenda will be delivered or orally transmitted, as appropriate, to the members no later than forty-eight (48) hours prior to the scheduled meeting or hearing.
- c. No business, either old or new, may be considered by the Commission unless such item properly appears on the agenda. However, any matter may be considered by the Commission as a non-agenda item if such matter is approved for consideration by a majority vote of the members present.

3.9. Attendance

A member who will be unable to attend the regular meeting of the Commission must contact the Chairperson or Secretary at least twenty-four (24) hours before the scheduled meeting and indicate the general reason for being absent to receive an excused absence. Earlier notification is encouraged. Unforeseen emergencies or illnesses shall be considered excused absences. The Commission will be notified of the absence and reason at the meeting.

Section 4: Conducting Business

4.1. Decisions

The vote of a majority of those members present shall be sufficient to decide any matter before the Commission, provided a quorum is present. No member shall be excused from voting except as required in Section 4.2. or Section 4.4. In all other cases, a failure to vote by a member who is physically present in the meeting room or who has withdrawn without being excused by a majority voted of the remaining members, shall be recorded as an affirmative vote. A negative vote or a tie vote on a motion to approve a Certificate of Appropriateness shall constitute a disapproval of the motion. Voting will be by roll call of the Commission members for decisions related to the issuance of Certificates of Appropriateness or for other business for which a roll call is deemed necessary by the Chairperson.

4.2. Qualifications to Vote

No Commission member shall vote on any matter before the Commission unless that member shall have attended the Commission's previous deliberations on such matter, or shall otherwise have the approval of the Chairperson to vote on such matter. The Chairperson's approval shall be solely contingent on whether or not the member provides assurance that the member has read all materials distributed to the Commission members related to the matter and has reviewed the minutes and/or recordings of all meetings at which the matter was discussed.

4.3. Impartiality Required

No Commission member shall, in any manner, discuss any application with any parties prior to the Commission's deliberations on such application, except as authorized in advance by the Chairperson; however, 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.

4.4. Conflict of Interest

No Commission member shall take part in any hearing, consideration, determination or vote concerning a property in which the Commission member has had undisclosed ex parte communication regarding

the case. No Commission member shall take part in any hearing, consideration, determination or vote concerning a property in which the Commission member or a close relative (spouse, sibling, child or parent):

- a. Is the applicant before the Commission;
- b. Owns property within 100 feet of the subject property; or
- c. Has a financial interest in the subject property or improvements to be undertaken thereon.

In addition, a Commission member may request to be excused from taking part in any hearing, consideration, determination or vote concerning a property in which a business associate or employer of the Commission member:

- a. Is the applicant before the Commission;
- b. Owns property within 100 feet of the subject property; or
- c. Has a financial interest in the subject property or improvements to be undertaken thereon.

If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

4.5. Motions

The Commission shall proceed by motion. All motions shall be made in the affirmative. A member making an affirmative motion that the member intends to vote against, may preface the motion with an explanation of this procedure. Any member, including the Chairperson, may make or second a motion. A substantive motion (non-procedural motion) is out of order while another substantive motion is pending. A motion may be withdrawn by the introducer at any time before a vote.

4.6. Debate

The Chairperson shall state the motion and then open the floor to debate on it. The member who makes the motion is entitled to speak first. A member who has not spoken on the issue shall be recognized before someone who has already spoken.

4.7. Procedural Motions

In addition to substantive motions, the following procedural motions, and no others, shall be in order in the following priority:

- a. To adjourn. This motion may be made only when action on a pending matter concludes; it may not interrupt deliberations of a pending matter.
- b. To take a recess.
- c. Call to follow the agenda. The motion must be made at the first reasonable opportunity or it is waived.
- d. To suspend the rules.
- e. To defer consideration. A substantive motion, consideration of which has been deferred, expires one hundred (100) days thereafter unless a motion to revive consideration is adopted.
- f. Call of the previous question. The motion is not in order until there has been at least twenty (20) minutes of debate, and every member has had an opportunity to speak once.
- g. To postpone to certain time or day.

- h. To refer to a committee. Sixty days after a motion has been referred to a committee, the introducer may compel consideration of the measure by the entire Commission, regardless of whether the committee has reported the matter back to the Commission.
- i. To amend. An amendment to a motion must be pertinent to the subject matter of the motion, but it may achieve the opposition of the motion's intent. The motion may be amended and an amendment may be amended, but no further amendments may be made.
- j. To revive consideration. The motion is in order any time up to 100 days after a vote to defer consideration. A substantive motion, consideration of which has been deferred, expires 100 days thereafter unless a motion to revive consideration is adopted.
- k. To reconsider. The motion must be made by a member who voted with the prevailing side. It must be made at the same meeting as the vote was taken. It cannot interrupt deliberation on a pending matter but is in order at any time before actual adjournment.
- l. To rescind or repeal.
- m. To ratify.

4.8. Minutes

The HPC shall keep permanent minutes of its meetings. The minutes shall include the attendance of its members and its resolutions, findings, recommendations, and other actions.

4.9. Suspension of Rules

The Commission may, upon an affirmative vote of six (6) members, suspend these rules of procedure for consideration of any matter before the Commission.

Section 5: Amendments

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than five (5) members of the Commission, provided that such amendment shall have first been presented to the membership in writing at a regular or special meeting preceding the meeting at which the vote is taken.

Section 6: Notification

In order to facilitate the exercise of the Commission authority and responsibility in promoting, enhancing and preserving the character and heritage of Durham's historic resources, the Commission requests that the Director of the Planning Department notify the Commission of pending applications for zoning changes, use permits, variances and demolition permits, and proposed zoning text amendments or other proposals which affect historic resources in the County of architectural or cultural significance.

Section 7: Application for COA

All applications will be processed according to the requirements of Article 3 of the UDO.

Section 8: Public Hearings

8.1. Agenda and Case Report Mailed to Commission

A meeting agenda and a staff report for each case will be mailed to the Commission members at least seven (7) days prior their regular meeting.

8.2. Public Hearings

The Commission shall conduct its public hearings as generally outlined below, except that the Chairperson of the Commission may, at his or her discretion, amend the procedures as necessary for the expeditious conduct of the Commission's business.

- a. The Chairperson shall call the public hearing to order.
- b. The Chairperson shall acknowledge that the proceedings are being recorded and that written minutes of the meeting will be kept by the Secretary.
- c. The Chairperson (or Vice-Chairperson, if presiding) shall swear-in or affirm all witnesses.
- d. The staff shall present the case background and staff recommendation.
- e. The Commission shall receive testimony from persons in favor of the COA.
- f. The Commission shall receive testimony from persons opposed to the COA.
- g. The Chairperson may establish time limits for each side of the issue and for each individual speaker.
- h. Discussion of the case by Commission members.
- i. The Commission shall make findings of fact indicating the extent to which the application is or is not consistent with the historical character and qualities of the district.
- j. The Commission shall make its decision.
- k. The Commission shall state the effective date of approval of a COA for demolition if applicable.

8.3. Remote Public Hearings

The Commission shall notice and conduct its remote public hearings similarly to its general public hearings but with the following additions and amendments, in accordance with North Carolina Session Law 2020-3, which allows for remote meetings and quasi-judicial hearings during declarations of emergency:

- a. All applicants will sign an oath of true testimony and consent to participation in a remote public hearing in advance of the scheduled hearing. The oath and consent will be confirmed verbally by the applicant at the remote hearing.
- b. All members of the public wishing to speak regarding a specific case will register to do so online in advance of the scheduled hearing. Instructions for registering are included in all notification letters to adjacent property owners and are posted on the Commission's website.
- c. A Commission member is considered present so long as simultaneous contact is maintained. If a member intentionally or unintentionally ceases contact, he or she no longer counts toward the Commission's quorum.

Section 9: Review Criteria

9.1. Local Historic Districts

Certificates of appropriateness applications for properties within a local historic district shall be reviewed against the appropriate sections of the Historic Properties Local Review Criteria.

9.2. Local Historic Landmarks

Certificates of appropriateness applications for properties designated as local historic landmarks shall be reviewed against the corresponding section of the Historic Properties Local Review Criteria.

Section 10: Issuance of the COA

10.1. Approval Stamp

Upon approval of the COA application by the Commission, the Planning Department shall denote with an inked rubber stamp the approval on the copy of the drawings submitted with the application. The Planning Department shall keep one (1) hard copy in its case record file, record one (1) digital copy in the Land Development Office, and return one (1) digital copy to the applicant.

10.2. Conditionally Approved COA

If changes are made to the drawings in an application as a result of conditions on the COA stipulated by the Commission, the applicant shall submit revised drawings incorporating the changes to the Planning Department. If the drawings conform to the conditions imposed by the Commission, the Planning Department shall denote approval with an inked rubber stamp and distribute copies as described in Section 10.1. The applicant may not proceed under the COA until the modified drawings are approved pursuant to this section.

10.3. COA Expiration

The COA expires two (2) years from the date of issuance unless a building permit is issued and maintained active. Amendments to COAs shall have the same expiration date as the original COA.

Section 11: Appeals

11.1. Appeals Time Limit

In accordance with the UDO Section 3.17.17, the Commission hereby establishes that appeals of the actions of the Commission in granting or denying any COA shall be filed with the Board of Adjustment within thirty (30) days of the day the applicant receives the Commission's written decision.

Section 12: Classification of Approvals

The following lists classify the types of approvals required for work in a local historic district or landmark. Classifications are based on the scope of work, project scale, and amount of deviation from historic materials and methods.

12.1. Normal Maintenance

The Commission considers the following activities to be routine maintenance of historic properties. The following activities do not require a Certificate of Appropriateness. However, other City permits may be necessary.

For All Properties:

- a. All interior work as long as it has no exterior impact (window replacement is not considered interior work for these purposes)
- b. Minor repairs to windows, including caulking or reglazing and replacement of window glass as long as window size and style are not altered
- c. Removal of cladding not original to the structure
- d. Minor repairs to doors, siding, trim, gutters, flooring, steps, fences, and walls, as long as the replacements match existing materials in scale, style, design, and materials
- e. Selective masonry repointing and replacement, when matching historic materials in strength, type, unit size, mortar joint thickness and tooling profile, bond pattern, texture, finish, and color.
- f. Roofing, foundation, and chimney work, if no change in appearance occurs; replacement of roofing material with matching material

- g. Removal of screen doors or storm doors
- h. Caulking and weatherstripping
- i. Exterior painting of an originally painted surface, including when a change of color is proposed, as long as no pattern is painted and the texture remains unchanged. This exception does not apply to painted signage.
- j. Replacement of existing mechanical equipment (including vents)
- k. Repairs to or repaving of flat, paved areas, such as driveways, walkways, and patios, if the material used is the same or similar in appearance
- l. Installation of landscaping, including vegetable, flower, and rain gardens, shrubs, and trees, as well as landscape maintenance, including pruning trees and shrubs (but not including removal of landscaping required to screen mechanical equipment or utilities)
- m. Curb, gutter, and pavement work that follows the Public Works Procedural Approach for Preserving Granite Curbs in Historic Districts
- n. Removal and/or replacement of street trees in the right-of-way, with review and approval by the Urban Forestry Manager
- o. Non-fixed elements (that can be moved without the use of heavy equipment) such as rain barrels, planters, dog houses, bird baths, and similar decorative or functional items
- p. Installation of solar panels not facing the street, so long as not attached to a character-defining roofing material (e.g., slate, terra cotta, traditional standing seam metal) and so long as panels are matte black in color or otherwise match the roof color and project no more than four inches above the finished roof surface; all associated equipment must be attached to the rear or side of the structure

For Noncontributing Properties:

- a. Painting of nonhistoric material, whether previously painted or not
- b. Installation of prefabricated or site-built outbuildings of 80 square feet or less when located in the rear yard
- c. Modifications to or demolition of outbuildings
- d. Addition of new rear decks or porches
- e. Modification, installation, or replacement of windows and doors not facing the street
- f. Addition of screen doors or storm windows
- g. Alteration or replacement of roof materials
- h. Installation of skylights and solar panels; when visible from the street, select solar panels to be matte black in color or to otherwise match the roof color and to project no more than four inches above the finished roof surface, and locate all associated equipment at the rear or side of the structure
- i. Installation of gutters
- j. Alterations to ornamentation or to cladding material

12.2. Work Requiring a Certificate of Appropriateness

a. **Minor Works.**

Certain activities are considered by the Commission to not have a significant impact on the exterior appearance of the historic structures, and are delegated to the appropriate staff person for administrative approval.

b. **Major Works.**

Major Works consist of modifications which significantly alter the appearance of the structure or site. These projects are required to be reviewed by the Commission. The

Commission shall hold public hearings for these cases.

c. **Classification of Approvals by Scope of Work**

The following chart indicates the level of approval required for various types of work.

	Staff Approval	Commission Approval
Type of Work	Minor Work	Major Work
I. Architectural Work		
a. New Construction		
i. Installation of new pre-fabricated outbuilding or new structure 80 sq. ft. or less.	✓	
ii. New structure greater than 80 sq. ft. and less than 144 sq. ft.		✓
iii. New structure greater than 144 sq. ft.		✓
b. Relocation of Structures		
i. Outbuilding less than 144 sq. ft.	✓	
ii. Outbuilding greater than 144 sq. ft.		✓
iii. Primary structure		✓
c. Demolition		
i. Contributing primary structure		✓
ii. Non-contributing primary structure		✓
iii. Contributing outbuilding		✓
iv. Non-contributing outbuilding	✓	
d. Additions to Primary Structures		
i. Addition of substantial spaces such as rooms		✓
ii. Addition of front or side decks or porches		✓
iii. Addition of new rear decks or porches	✓	
e. Additions to Accessory Structures		
i. Addition to contributing accessory structure		✓
ii. Addition to non-contributing accessory structure	✓	
f. Windows and Doors		
i. Replacement of original windows and original street-facing doors on contributing structures		✓
ii. Replacement of non-original and non-contributing windows and doors, and non-street facing doors	✓	
iii. Modification or installation of window and door openings facing the street		✓
iv. Modification or installation of window and door openings <u>not</u> facing the street	✓	
v. Modification, installation, or replacement of storm windows or storm doors	✓	
vi. Alteration or new construction of storefronts	✓	
vii. Restoration of original window or door openings where doors and windows match original or existing	✓	

viii. Installation of window air conditioning units not visible from the street	✓	
g. Roofs		
i. Alteration of roof material	✓	
ii. Alteration of roof form (including alteration, removal, or construction of dormers)		✓
iii. Installation of skylights or solar panels visible on front facade of contributing structures	✓	
iv.		
v. Construction of new or modification of character-defining chimneys		✓
vi. Installation of gutters	✓	
h. Other Building Alterations		
i. Alterations or construction of building elements (including columns, railings, stairs, landings, ramps and flooring)	✓	
ii. Alterations or construction of architectural details (including molding, brackets, or decorative woodwork)	✓	
iii. Change in original cladding material or style		✓
iv. Change in non-original cladding material or style	✓	
v. Painting of previously unpainted surface on contributing structure		✓
vi. Changes to any non-contributing outbuilding	✓	
vii. Building additions, porches, or other extant features		✓
viii. Character defining building elements or details without reconstruction		✓
ix. Non-character defining building elements or details without reconstruction	✓	
II. Site Work		
a. Parking areas		
i. New residential driveways or changes to existing residential driveways	✓	
ii. Changes to existing parking lots	✓	
iii. New surface parking lots	✓	
b. Fences or Walls	✓	
c. Planting or removal of trees and planting of shrubs in the street yard	✓	
d. Removal of canopy trees (greater than 12 inches DBH)	✓	
e. Light fixtures and poles (new or replacement)	✓	
f. Walkways, patios or other paving	✓	
g. ADA Compliance		

i. Installation of ADA compliance updates (including ramps, etc.) where staff determines that the proposal will have a significant impact on the character of the structure		✓
ii. Installation of ADA compliance updates (including ramps, etc.) where staff determines that the proposal will <u>not</u> have a significant impact on the character of the structure	✓	
h. Installation, relocation, or removal of mechanical equipment	✓	
i. Additional site work or structure not described above	✓	
III. Signs		
a. Freestanding Signs		
i. New freestanding signs requiring a sign permit		✓
ii. New freestanding signs allowed without a sign permit	✓	
b. Building Mounted Signs		
i. New building-mounted signs greater than 24 sq. ft. in area		✓
ii. New building-mounted signs up to 24 sq. ft. in area	✓	
iii. New building mounted signs allowed without a sign permit	✓	
c. Replacement of signs with new ones to match the old in size and location	✓	
IV. Public Art Murals		
a. On a non-contributing structure	✓	
b. On a contributing structure		
i. Painting on a historically painted surface	✓	
ii. Painting on a previously unpainted non-historic material	✓	
iii. Painting on previously unpainted historic material		✓
c. On a landmark structure		✓
V. Streetscapes		
a. Modifications within the right-of-way deemed significant by staff		✓
b. Minor modifications within the right-of-way	✓	
c. Small-cell wireless installations (with or without new pole)	✓	
VI. Previously Approved COAs		
a. Renewal of Expired COA	✓	
b. Minor Amendments	✓	
c. Substantial amendments		✓
VII. Other		
a. Any project for which the State Historic Preservation Office and/or National Park Service have approved the scope of work through the historic rehabilitation tax credit program	✓	
b. Work items not listed here for which a clear citation can be made for conformance with the local review criteria	✓	

<p>c. Work items not listed here that are deemed by staff to be substantial in nature, precedent setting, not addressed by the local review criteria, or not in conformance with the criteria</p>		<p>✓</p>
<p>VIII. Emergency Installations/Repairs –</p>		
<p>Installation of temporary features to protect a historic resource that do not permanently alter the resource. Six month duration with in-kind reconstruction or an approved COA.</p>	<p>✓</p>	