

# Historic Resources Commission of Asheville and Buncombe County

## RULES OF PROCEDURE

### ARTICLE I. NAME

The name of the Commission shall be the Historic Resources Commission of Asheville and Buncombe County (HRC).

### ARTICLE II. GENERAL RULES

The Historic Resources Commission of Asheville and Buncombe County shall be governed by the terms of City of Asheville Ordinance #1109 and Buncombe County Ordinance #16440, creating the HRC, as contained in the Code of Ordinances for the City of Asheville and Buncombe County, North Carolina, and by the terms of NCGS § 160A-400.1 through 160A-400.14 as they may be amended or revised.

### ARTICLE III. POWERS AND DUTIES

The Powers and Duties of the HRC shall be as set for in Section 7-3-4 of the Unified Development Ordinance, and elsewhere is Chapters 7 and 8 of the Asheville City Code.

### ARTICLE IV. PURPOSE OF RULES OF PROCEDURE

The purpose of these Rules will be to set forth the general operating procedures for conducting the business of the Historic Resources Commission of Asheville and Buncombe County.

### ARTICLE V. JURISDICTION

The jurisdiction of the HRC shall be limited to those areas in Buncombe County as authorized by North Carolina General Statutes and local government ordinances.

### ARTICLE VI. MEMBERS, OFFICERS AND DUTIES

- A. **General** The Commission shall be composed of twelve members per section 7-3-4 of the Unified Development Ordinance who shall have demonstrated special interest, experience, or education in history, architecture, archaeology, architectural history, historic preservation, landscape architecture or related field.
- B. **Chair** A Chairman shall be elected annually by the voting members of the Commission. The chairman shall preside at meetings of the Commission, and shall decide all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Commission in session at the time. The chairman shall appoint any committees found necessary to investigate any matters before the Commission.
- C. **Vice-chairman** A vice-chairman and a 2<sup>nd</sup> and 3<sup>rd</sup> vice-chairman shall be elected annually by the voting members of the Commission in the same manner as the chairman. The vice-chairman shall serve as acting chairman in the absence of the chairman, and at such times shall have the same powers and duties as the chairman.

- D. **Temporary Chair** Whenever the chair and vice chair are absent or otherwise unable to serve, the Commission may elect a temporary chair from among its members to serve until the chair or vice chair are able to resume their duties.
- E. **Secretary** HRC staff shall serve as the secretary to the HRC. The secretary shall oversee the keeping of all records, and the conducting of all correspondence of the Commission.
- F. **Elections**The chairman shall appoint a nominating committee on or before the regular March meeting. The committee shall prepare a slate of nominations for Commission officers and submit it to the membership on or before the regular May meeting, at which time nomination may also be made from the floor. Terms of officers shall begin with the regular July meeting. In the event that an officer of the Commission resigns or is otherwise removed from the Commission, the vacated office shall be appointed by the Chair.
- G. **Terms of Appointments** Terms of appointment for Commission members shall be three years from date of appointment, ending June 30, except in the initial organization of the HRC; provided that in the case of a vacancy prior to the end of a term, persons appointed to fill the unexpired term shall serve out the remainder of that term. Commissioners may serve two consecutive terms.  
  
The County Commission and City Council shall be encouraged to make new appointments to the Commission prior to April 1 to become effective July 1.
- H. **Holdover Appointments** Members whose terms have expired may continue to serve until replacements are appointed and qualified.
- I. **Attendance at Meetings** Faithful and prompt attendance at all meetings of the HRC and conscientious performance of the duties required of members shall be a prerequisite to continuing membership on the Commission. Should a member fail to attend three consecutive regular meetings of the Commission or have an attendance rate of less than 75% per rolling 12 month period and should there be no adequate excuse for such absence, the chairman, with the concurrence of a majority of the entire Commission, shall recommend to the appropriate authority that a vacancy be declared and that the vacated position be filled.
- J. **Conflict of Interest** No Commissioner shall take part in the hearing, consideration or determination of any case in which the Commissioner has a conflict of interest within the meaning of NCGS§ 160A-381(d) or 388(e1) or otherwise disqualified pursuant to law.
- K. **Knowledge of Duties** Each member of the Commission shall be thoroughly familiar with all statutes, laws, ordinances and rules of procedure relating to the Commission as time and circumstances permit. Members shall familiarize themselves with the agenda items prior to the meeting at which the items shall be deliberated.

**ARTICLE VII. EXECUTIVE COMMITTEE**

- A. The Commission shall formally designate an Executive Committee whose function shall be to plan, organize and coordinate the work of the Commission at the pleasure of the Chairman and in the absence of the full Commission, but subject to the consent of the full Commission. The membership of the Executive Committee shall be determined as follows:
  - (1) Chairman of the Commission;
  - (2) Vice-Chairman of the Commission;

- (3) 2<sup>nd</sup> Vice-Chairman of the Commission;
- (4) 3<sup>rd</sup> Vice Chairman of the Commission;
- (5) Immediate Past Chairman (As ex-officio member); whether or not a then member of the Commission, whose term on the Executive Committee shall run for one (1) calendar year from the expiration of his or her term as Chairman. In the event the Immediate Past Chairman is unable or not qualified to serve on the Executive Committee, then the Commission shall elect one of its members as an at-large member of the Executive Committee in the same manner as and for a term identical to the other officers of the Commission.

**ARTICLE IX. STANDING COMMITTEES**

**A. Education and Community Outreach**

The Committee shall be responsible for guiding and recommending the development and distribution of promotional materials as part of an educational program on Asheville and Buncombe County's historic districts and landmarks and historic preservation in general. It shall also undertake other educational activities that will be beneficial to the HRC's preservation mission such as receptions or workshops. The Committee shall coordinate annual meetings in the local historic districts and develop a program for Preservation Month activities in conjunction with other preservation organizations as appropriate. The Committee shall also be responsible for the orientation of new members.

**B. Landmarks and Research**

The Landmarks Committee shall be responsible for guiding policy and setting procedures relating to the local landmark program and maintaining a study list of qualifying properties. The Committee shall occasionally review the application process, conduct site visits to proposed landmarks, review landmark applications and make recommendations to the full Commission as to whether the significance and integrity of the property rises to the level of a local landmark. The Committee shall establish a study list policy and annually review and update the study list, conduct research and designation reports for properties on the list as needed. The Committee may establish and carry out other programs as determined by the members. Such programs may include but not be limited to recognizing historically significant sites in the region that do not qualify as landmarks, to promote their preservation, restoration, or adaptive re-use, to honor the enduring symbols of our local history and to support heritage tourism.

**Article X. MEETINGS**

**A. Regular Meetings** Regular meetings of the Commission shall be held on the second Wednesday of each month at 4:00 p.m. in the 1<sup>st</sup> floor North Conference Room in City Hall; provided, that meetings may be held at some other convenient time and place in Buncombe County if directed by the chairman in advance of the meeting.

**B. Special Meetings** Special meetings of the Commission may be called at any time by the chairman. Public Notice of Special meetings shall be as provided by open meetings law. At least forty-eight (48) hours notice of the time and place of special meetings shall be given by the secretary, or by the chairman, to each member of the Commission; provided that this requirement may be waived by action of a majority of all members. Notice shall be deemed complete upon delivery of notice to the member's usual dwelling place, but this does not preclude other forms of notification.

**C. Cancellation of Meetings** Whenever there is no business for the Commission, the chairman 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 a simple majority of the current commission, not including vacant seats. In the event that a quorum exists for the meeting, but a Commission member is excused from voting, pursuant to subsection VI.J. above, the quorum shall not be destroyed; provided however, in no event shall fewer than five (5) members of the Commission vote on any action.
- E. **Conduct of Meeting** All meetings shall be open to the public, subject to the provisions of the North Carolina Open Meetings Law, NCGS §143, Article 33C.
- F. **Agendas** The order of business at the regular meetings shall be as follows: a) roll call; b) approval of minutes of previous meetings; c) consent agenda; d) unfinished business; e) f)new business; and g) report of committees.

**ARTICLE XI. GUIDELINES**

The Commission shall adopt procedure and review criteria for the application and disposition of certificates of appropriateness as provided for in NCGS § 160A-400.9 and City Code section 7-5-11 as they may be amended or revised.

**ARTICLE XII. APPLICATION PROCEDURES FOR CERTIFICATE OF APPROPRIATENESS**

- A. **Application Process** An application for a Certificate of Appropriateness shall be made as set forth in the Unified Development Ordinance Section 7-5-11.

Pre-application conferences are required for all Major Work applications and preliminary reviews are required for all new construction applications within 6 months of the final review.

Nothing shall prevent the applicant from filing with the application additional relevant information (photographs, drawings, models, etc.) bearing on the application.

- B. **Notice Requirements** In addition to the notice requirements as set forth in section 7-5-20 of the UDO, the HRC staff will send notification letters by email to the president or neighborhood representative of each of the historic districts, for proposed projects on the HRC agenda within those districts.

Failure to follow procedures set forth in this section, other than those required by NCGS, shall not affect the validity of any action taken at a public hearing or public meeting.

- C. **Design Review Advisory Team**  
The HRC or staff may refer certain applications for review by an ad hoc Design Review Advisory Team. The Design team shall also be available to meet with representatives of the applicant or their representatives prior to submittal of a formal application.

- D. **Public Hearings** The hearing shall be conducted pursuant to the rules of procedure established by the Commission pursuant to NCGS § 160A-400.9.

The HRC Chair may require all persons wishing to speak to be sworn or affirmed.

The HRC staff shall present comments analyzing the application with respect to the design guidelines. The HRC may also receive comments from any official from the City, County, State or any local historical preservation or neighborhood association or any other interested party to be heard.

The applicant shall present evidence in support of the application.

Affected property owners shall be given an opportunity to be heard at the meeting at which the application is considered. Any party may appear in person or be represented by an authorized agent or attorney at the meeting. Comments shall be limited to 10 minutes, except at the discretion of the chair.

In consideration of an application, 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.

At the discretion of the chair any person may ask questions regarding the application; provided that irrelevant; redundant or argumentative questions may be excluded.

The applicant shall be given the opportunity to rebut evidence against the application. Only new information shall be presented in rebuttal.

**E. Consent Agenda** In cases where the Commission deems it unnecessary, it may waive the option of holding a public hearing concerning the application.

**F. Review Process** Prior to final action on an application, the Commission, using the design review guidelines adopted by the Commission, shall make findings of fact indicating the extent to which the application is or is not in conformity with the historic aspects of the district.

The vote of a majority of those voting members present shall be sufficient to decide matters before the Commission, providing a quorum is present. The Commission's acting on the application shall be approval, approval with conditions, or disapproval.

The Commission shall cause to be entered into the minutes of its meeting the reasons for its actions.

In taking action on the application, the Commission shall apply the standards contained in the appropriate Design Review Guidelines or in the absence thereof, the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings."

Each member of the Commission should at its discretion, view the premises and obtain additional facts concerning any application, and may seek the advice of the Department of Cultural Resources or other expert advice as it may deem necessary.

**G. Time for Decision** The Commission must issue or deny a Certificate of Appropriateness within Ninety-five (95) days after the filing of the application, except when the time limit has been extended by mutual agreement between the applicant and the Commission or when the application is for the demolition of an historic structure.

**H. Votes on Certificate of Appropriateness**  
No member of the HRC shall vote on a CA application unless that member attended all the meetings at which the CA application was deliberated or reviewed the minutes of any prior meeting at which the application was deliberated. In the event of an absence from previous deliberations, the member shall declare for the record that he is familiar with previous deliberations or should otherwise recuse themselves.

**I. Approved Application** If the application is approved, the secretary of the Commission shall transmit in writing a Certificate of Appropriateness, clearly describing the nature of the work which has been approved. The secretary shall attach a copy of the minutes of the meeting at which approval was granted and a placard form of a Certificate of

Appropriateness to be displayed on the project. A copy of this information shall be transmitted to Planning Services.

- J. Denied Application** If an application is denied, a letter stating the reason for the denial shall be mailed to the applicant.

If an application is denied, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving.

- K. Modifications to Certificate of Appropriateness**  
Ca's may be modified by written request from the applicant to the HRC. If the modification is minor, the staff may approve the change. If the change is substantial the modification will be referred back to the HRC as a major work.

- L. Appeals** An appeal may be taken to the Board of Adjustment from the Commission's action in granting or denying any certificate, which appeals (1) may be taken by any aggrieved party, (2) shall be filed *with the Board of Adjustment* within 30 days *following the Commission's action*, and (3) shall be in the nature of certiorari. Any appeal from the Board of Adjustment's decision in any case shall be *made* in accordance with the provisions of Article 8 of the Appendix A, *zoning of the Code of Ordinances of the City of Asheville (or its successor)*.

- M. CA Validity** A Certificate of Appropriateness shall be valid for twelve (12) months following approval. If no work on the project has begun, the applicant may be required to resubmit the project to the Commission for review.

- N. Demolition** No application for the demolition of a historic property or of a key or contributing structure within a historic district shall be granted until the Historic Resources Commission has both inspected the structure noting significant architectural details and investigated its historical significance. The Historic Resources Commission shall also be given a reasonable opportunity to salvage significant interior and exterior details which the owner otherwise intends to demolish. The Commission may impose a 30-day delay on the issuing of such certificates to allow time for these investigations and salvage. The property owner may avoid the delay for these investigations by providing historical background material to the Commission's standards and by providing a reasonable opportunity for salvage. These provisions do not alter the Commission's authority to impose a maximum 365-day delay on demolition where warranted by either the significance of the property or by the possibility of finding a preservation solution.

## **ARTICLE XV AMENDMENTS**

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than 75% of members of the Commission provided that such amendment shall have first been presented to the membership in writing prior (at least one week) to the meeting at which the vote is taken.