

Forsyth County Historic Resources Commission

Rules of Procedure

September 4, 2024

Rules of Procedure

Section 1.0 Introduction

1.1 Purpose

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

1.2 General Rules

The Commission shall be governed by the terms of the ordinance creating the Commission as contained in the *Winston-Salem/Forsyth County Unified Development Ordinances* (UDO), and by the terms of N.C.G.S. 160D, Article 9, Part 4, as they may be amended or revised. 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 2.0 Members, Officers, and Duties

2.1 Chair

The Chair shall preside at meetings and public hearings of the Commission, make committee appointments, and decide all points of order and procedure subject to these *Rules of Procedure* unless directed otherwise by a majority of the Commission in session at that time. The Chair shall appoint any committees found necessary to investigate any matters before the Commission. The Chair shall be a voting member of the Commission.

2.2 Vice-Chair

The Vice-Chair shall serve as acting Chair in the absence of the Chair, and at such times shall have the same powers and duties as the Chair.

2.3 Secretary

Staff of the Forsyth County Historic Resources Commission shall serve as Historic Resources Officer(s)/Secretary. The Historic Resources Officer(s), subject to the direction of the Chair and Commission, shall keep all records, shall conduct all correspondence, and generally supervise the clerical work of the Commission. The Historic Resources

Officer(s) shall keep the minutes of every meeting of the Commission. The Historic Resources Officer(s) shall, in consultation with the Chair or Vice-Chair, prepare all agendas for meetings of the Commission. The Historic Resources Officer(s) shall not be a member of the Commission.

2.4 Election of Officers

The Chair and Vice-Chair shall be elected at the Commission's first regular meeting in January of each evenly numbered year. The Chair and Vice-Chair shall serve terms of two (2) years and shall be eligible for reelection. Members shall be notified by the Historic Resources Officer(s) in writing of the elections at least one (1) regular meeting prior to the regular meeting in which the elections shall take place.

2.5 Vacancy

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

2.6 Committees

The Chair shall appoint standing committees as follows:

- A. Community Engagement Committee
- B. Historic Recognition Committee

The Commission may establish any other Committee deemed necessary by a vote of the majority of the Commission.

Section 3.0 Meetings

3.1 Regular Meetings

Regular meetings of the Commission shall be held on the first Wednesday of every month at 4:00 p.m. in the Bryce A. Stuart Municipal Building; provided that meetings may be held at some other convenient time and place if directed by the Chair or a majority of the Commission in advance of the meeting.

3.2 Special Meetings

Special meetings may be called by the Chair. 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 Chair 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 seven (7) members of the Commission. The number required for a quorum shall not be affected by vacancies. In the event that a quorum exists for the meeting, but a Commission member is excused from voting, pursuant to subsection 4.4 below, the quorum shall not be destroyed; provided however, in no event shall fewer than four (4) members of the Commission vote on any action.

3.5 Order of Business

All meetings shall be open to the public, subject to the provisions of the North Carolina Open Meetings Law, N.C.G.S. §143, Article 33C. The order of business at regular meetings shall be as follows:

- A. Call to order;
- B. Roll call;
- C. Approval of minutes;
- D. Hearing and consideration of each case/application;
- E. Committee reports;
- F. Staff report;
- G. For the good of the order;
- H. Adjournment.

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

Section 4.0 Conducting Business

4.1 Decisions

The vote of a majority of the Commission shall be required to decide a quasi-judicial matter. For the purpose of this subsection, vacant positions on the Commission and members who are disqualified from voting on a quasi-judicial matter under G.S.160D-109(d) shall not be considered members of the Commission for calculation of the requisite majority. A majority of those present and voting shall be sufficient to decide all other matters before the Commission, subject to the requirements of Section 3.4 herein.

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 Chair to vote on such matter. The Chair's approval shall be contingent on the assurance by the member that the member has read any material distributed to the Commission members related to the matter and the minutes of any meeting 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 Chair.

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 or a close relative (spouse, sibling, child, or parent):

- A. Is the applicant before the Commission; or
- B. Owns property within one hundred (100) feet of the subject property.

Further, a member of the Commission shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to,

- A. A member having a fixed opinion prior to hearing the matter that is not susceptible to change;
- B. Undisclosed *ex parte* communications;
- C. A close familial, business, or other associational relationship with an affected person; or,
- D. A direct, substantial, and readily identifiable financial interest in the outcome of the matter. 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 objections.

Section 5.0 Application Procedures for Local Historic Landmark Designation

5.1 Application Forms

Applications for requesting designation of a Local Historic Landmark (LHL) are available from Commission staff.

5.2 Filing of Designation Request

A complete and correct request for LHL designation (LHL Application) shall be filed with Commission staff in the manner directed, including all required fees and supporting materials.

5.3 Review and Investigation

Commission staff shall review LHL Applications, which consist of an investigation and report on the significance of each property proposed for designation. Such investigation or report shall be forwarded to the Office of Archives and History, North Carolina Department of Cultural Resources. Following receipt of any comments and/or recommendations from the Department of Cultural Resources, or the expiration of thirty (30) days, the Secretary shall docket the LHL Application for consideration by the Commission and arrange a legislative hearing on the proposed designation.

5.4 Consideration by the Commission

The Commission shall consider LHL Applications at either a regular or special meeting. Consideration of LHL Applications shall be conducted as legislative hearings. Consideration of an LHL Application and/or a legislative hearing may be continued to a later meeting in order to seek additional information, or for such other reason as the Commission may decide is appropriate. Following the legislative hearing, the Commission will make a recommendation on the LHL Application to the elected body.

5.5 Elected Body Determination

After the Commission has made a recommendation on the LHL Application, the Historic Resources Officer shall prepare a report of the Commission's recommendation and forward the report to the appropriate elected body along with a request that such elected body schedule a legislative hearing on the LHL Application. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Following action by the elected body, the Commission shall carry out any further duties as specified by law.

Section 6.0 Application Procedures for Certificates of Appropriateness (COA)

6.1 Application

Commission staff shall provide instructions and a means for applying for a COA on the Commission website.

6.2 Submission of Completed Applications

The applicant shall submit the application and all required information as directed on the Commission website. Applications will not be accepted by Commission staff unless they include all required information. Applicants will receive a notice of a rejected application by email.

6.3 Application Deadline

The deadline for pre-submission of a COA application is thirty-five (35) days prior to the next meeting of the Commission. The deadline for filing a complete COA application is twenty-eight (28) days prior to the next meeting of the Commission. If the deadline is a holiday or other special circumstance, Commission staff will publish a revised deadline.

6.4 Notification Requirements

COA applications for properties within Historic or Historic Overlay Districts shall require (a) Commission staff to prominently post a notice of the hearing on the site that is the subject of the application or on an adjacent street or highway right-of-way and (b) notification of property owners within one hundred (100) feet on all sides of the subject property. Commission staff shall send notification by mail no more than 25 days nor less than 10 days prior to the Commission meeting at which the case is to be heard.

COA applications for LHL properties located outside the boundaries of Historic or Historic Overlay Districts shall require (a) Commission staff to prominently post a notice of the hearing on the site that is the subject of the application or on an adjacent street or highway right-of-way and (b) notification to the owners of all parcels of land abutting LHL parcels. Commission staff shall send notification by mail no more than 25 days nor less than 10 days prior to the Commission meeting at which the case is to be heard.

Section 7.0 Consideration of Applications

7.1 Meeting Agenda/ Report

The meeting agenda, staff report(s), and COA application(s) will be distributed to Commission members prior to each Commission meeting. The same materials shall concurrently be provided to the applicant and to the land owner if that person is not the applicant.

7.2 COA Application Consideration

The Commission shall conduct COA application review as generally outlined below, except that the Chair of the Commission may amend the procedures as necessary for the expeditious conduct of the Commission's business:

- A. At the beginning of the COA review portion of the meeting, the Chair shall explain the procedure for reviewing COA applications.
- B. Commission staff shall present information on the COA application and the staff report.
- C. The Commission shall receive sworn testimony from persons in support of the COA.
- D. The Commission shall receive sworn testimony from persons in opposition to the COA.
- E. Following the conclusion of public testimony, the Commission shall deliberate in a work session.
- F. The Commission shall make findings of fact indicating whether the COA application is or is not incongruous with the special character of the LHL or District.
- G. The Commission shall vote on issuance of a COA.

The Commission may, in its discretion, determine the need to view the premises and/or obtain additional information concerning any COA application before arriving at a decision. In considering COA 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.

7.3 Decision Time Limit

After the filing of a complete COA application, the Commission must issue or deny a COA within the time period required by the N.C.G.S. and UDO, except when the time limit has been extended by mutual agreement between the applicant and the Commission. Failure to act upon a complete COA application within the required time period shall constitute approval of the COA.

Section 8.0 COA Issuance/Denial

8.1 Form of Decision

All formal actions of the Commission shall be set forth in writing. A decision of the Commission shall be effective upon filing the written decision with the Historic Resources Officer.

8.2 Delivery of the Decision

The decision of the Commission shall be delivered within a reasonable time by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide personal service shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

8.3 COA Application Resubmittal

If a COA application is denied, a new COA application affecting the same property may be considered only if the Commission determines that there is substantial change in the law or Design Review Standards, the environment surrounding the property, or in the COA application itself.

8.4 COA Expiration and Renewal

Unless otherwise designated by the Commission, all work approved under a Certificate of Appropriateness shall be completed within three (3) years of the effective date of the Certificate of Appropriateness. The applicant may, prior to expiration, request to renew a COA for one (1) additional year. If the work approved under a Certificate of Appropriateness has not been completed within the designated time period, the Certificate of Appropriateness shall expire.

8.5 COA Appeals

Appeals from COA decisions of the Commission shall be made to the appropriate Board of Adjustment by the later of thirty (30) calendar days after the decision is effective or after a written copy thereof is delivered in accordance with Section 3.2.2(D)(12) of the UDO and shall be in the nature of certiorari. Appeals from the Board of Adjustment shall be made to the Forsyth County Superior Court.

Section 9.0 After-the-Fact COAs

9.1 After-the-Fact COA Applications

An after-the-fact COA application includes any projects that have been initiated or completed prior to obtaining the required COA.

9.2 After-the-Fact COA Application Fee

To discourage activity without a COA and to assist in offsetting the costs associated with the additional staff work that accompanies an after-the-fact COA application, an escalated fee system has been implemented. The escalated fee system is based upon the number of after-the-fact COA applications sought by or on behalf of a property owner. The after-the-fact COA application fee, as established by the local elected bodies, shall be due upon submission of the application.

9.3 Application Consideration

All after-the-fact COA applications shall be brought before the Commission for consideration.

9.4 Approval of After-the-Fact COA Applications

Unless otherwise designated by the Commission, if an after-the-fact COA application is approved, the applicant shall have ninety (90) days to complete the approved work.

9.5 Denial of After-the-Fact COA Applications

If an after-the-fact application for approval of work, completed without a COA, receives a denial from the Commission, the subsequent COA application, if required, shall be considered anew. A subsequent COA application must be submitted to the Commission within thirty (30) days of the effective date of the denial of the original after-the-fact application. Staff shall determine if the subsequent application qualifies as a major or minor work and said application shall be reviewed accordingly. Section 8.3 shall also apply to said applications.

Section 10.0 Amendment

10.1 Amendment

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than eight (8) 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.