

# Historic District Commission Rules of Procedure

## **1.0 Purpose**

To establish procedures for organizing the business of the Hillsborough Historic District Commission, hereafter termed "Commission", and processing applications for Certificate of Appropriateness for (1) Changes in the exterior appearance of existing structures and/or streetscapes: (2) the design of new structures and additions to existing structures: and (3) for demolition of existing structures within the Hillsborough Historic District, hereafter called "District", and to establish procedures for the Commission's review of potential "landmarks" and applications for certificates of appropriateness for such "landmarks".

1.1 *Mission Statement.* To identify, protect, and preserve Hillsborough's architectural resources and to educate the public about those resources and preservation in general. The Hillsborough Historic District presents a visual history of Hillsborough's development from the 1700s to the 1960s. In 1973, the town chose to respect that history through the passage of the preservation ordinance creating the historic district.

1.2 *Public Charge.* The Hillsborough Historic District Commission pledges to the citizens of Hillsborough its respect. The commission asks members of the public to conduct themselves in a respectful, courteous manner with the commission members and with fellow citizens. At any time should any member of the commission or any citizen fail to observe this public charge, the chair or the chair's designee will ask the offending person to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the chair or the chair's designee will recess the meeting until such time that a genuine commitment to this public charge can be observed.

## **2.0 General Rules**

The Commission shall be governed by the terms of the Town of Hillsborough Unified Development Ordinance (UDO), the Hillsborough Historic District Design Standards, and by the terms of G.S. 160D-940 through 160D-949, as they may be amended or revised. For procedures not covered by these rules, the Commission shall follow the rules contained in the current edition of Robert's Rules of Order.

## **3.0 Jurisdiction**

The Commission's jurisdiction for requiring Certificates of Appropriateness is mandated by the Town of Hillsborough Historic District Section 4.3.1 of the Unified Development Ordinance ("UDO") in accordance with the Zoning Map. In addition, The Commission's jurisdiction with respect to "landmarks" is established by Section 2.5 and Section 3.12 of the UDO.

## **4.0 Members, Officers, and Duties**

The Commission shall be composed of seven members, whose terms of office are set by the Hillsborough Board of Commissioners

- 4.1 *Chair.* A chairperson shall be elected by the members of the Historic District Commission. The chair shall decide all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Commission in session at a time. The chair shall appoint any committees found necessary to investigate any matters before the Commission.

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- 4.2 *Vice-Chair.* A vice-chairperson shall be elected by the Commission from among its members in the same manner as the 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. Should both the chair and the vice-chair be absent, any member may serve as chair with the consent of the majority of those members present.
- 4.3 *Secretary.* A member of the staff designated by the Hillsborough Board of Commissioners or the Zoning Officer shall serve as secretary to the Commission. The secretary, subject to the direction of the chairman of the Commission, shall keep records, conduct all correspondence of the Commission, and generally supervise the clerical work of the Commission. The secretary shall not be eligible to vote upon any matter.
- 4.4 *Elections.* Whenever practical, election of officers shall be held at the first regular meeting in October. The secretary shall make the election of officers a standing agenda item for the first regular meeting in October. The Secretary shall assume the chair for the purpose of administering the election of the chair. The Secretary shall open the floor to nominations for the chair by Board members. Nominees must be present at the organizational meeting in order to be eligible for nomination. The Secretary shall then entertain a motion to close the floor to nominations. After the motion has been seconded, but before the Board acts on the motion, any nominee may decline a nomination. Election of the chair shall be by roll call vote. A majority of the quorum of the Board present at the organizational meeting shall be required for election of the chair. Once a chair has been elected, the newly elected chair of the Board shall assume the duties of the chair and shall proceed immediately to the election of the vice chair. The election of the vice chair shall follow the same procedure as set forth above for the election of the chair.
- 4.5 *Disqualification of a voting member.* Pursuant to G.S. 160D-109 "A member of any board exercising quasi-judicial functions pursuant to this Chapter 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 member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a 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 objection." For the purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.
- 4.6 *Qualification to vote.* No Commission member shall vote on any matter deciding an application or a request to reconsider unless that member shall have attended the Commission's previous deliberations on such application, or shall have read the minutes

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of the meetings at which the application was discussed and is thoroughly familiar with the facts and details of the proposal.

- 4.7 *General Knowledge.* Each member of the Commission shall be thoroughly familiar with all statutes, laws, ordinances, and rules of procedure relating to the District and the Commission as time and circumstance permit.
- 4.8 *Required Training.* Each member of the Commission shall be thoroughly familiar with all statutes, laws, ordinances, and rules of procedure relating to the District and the Commission as time and circumstance permit. At least two members per fiscal year shall attend required training to meet the Town's Certified Local Government (CLG) training requirements at the direction of staff.
- 4.9 *Vote.* The majority of those members present or a concurring vote of at least three (3) members of the Board, if only 5 or less members are present, shall be necessary in order to decide in favor of the applicant or any matter upon which it is required to pass by this Ordinance. A tie vote on the Findings of Fact does not halt procedure deliberation on an application. A tie vote on a Motion does not constitute a majority of the board members present and therefore the Motion fails.
- 4.10 *Member Conduct.* Membership on the Commission is a privilege in service to the Town of Hillsborough and shall be treated as such. All members of the Commission shall at all times:
- A. Provide leadership to the Commission and the Town of Hillsborough, by personal example, in support of the Commission's mission statement.
  - B. Respect others and not bully, insult, threaten, or attempt to bully, insult, or threaten any member of staff, the Commission, or the General Public.
  - C. Respect the confidentiality of information which you receive as a member by not disclosing confidential information to third parties unless required by law to do so or where there is a clear and over-riding public interest in doing so; and not obstructing third parties' legal rights of access to information.
  - D. Conduct themselves in a manner which will prevent the Commission from being held in disrepute.
  - E. Use their position as a member acting only in the public interest, and not for personal advantage, including financial gain.
  - F. Apply the Commission's Design Standards, where any deviation from the adopted Design Standards shall be based on sound reasoning in accordance with the Commission's mission statement.
  - G. Exercise independent judgement, making decisions only for the public good, and making no decisions that would knowingly jeopardize the Town's Certified Local Government status or put the Town in a legally indefensible position.

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H. Do nothing that causes the Commission to act unlawfully.

I. Take no action that would be incongruous with the special character of Hillsborough's historic district.

4.11 *Violation of Rules of Procedure.* Members found to be in violation of one or more of the Rules of Procedure outlined in Sections 1.2, 4.5, 4.6, and/or 4.10, shall be, at the discretion of the Planning Director, Mayor, and/or Town Board, subject to either counseling, coaching, probation (with a final opportunity to correct the adverse action), or dismissal from the Commission. The severity of the violation as it relates to carrying out the duties of the Commission, shall determine the appropriate action to be taken by the Town.

4.12 *Reappointment and Resignation of Members.* Members in good standing desiring to serve a second consecutive term on the Commission shall notify staff a minimum of 60 calendar days prior to the expiration date for their current term. Staff will then consult with the Chair and the Planning Director to determine whether a second term will be recommended. Among the factors to be considered in making this determination will be the Member's attendance record, regular participation in discussion at meetings, member conduct at meetings, and whether the Town has other applicants seeking to serve on the Commission. Should a member be recommended for reappointment, he or she will be permitted to serve a second consecutive three-year term in accordance with Town ordinance. Should a member in good standing voluntarily decide not to serve a second term, he or she will be permitted to re-apply after a one-year period lapses between terms. Should a member voluntarily resign prior to completion of his or her term without providing staff proper notice, he or she will be ineligible for reappointment for a period of no less than 1 year following the date of resignation. Finally, should a member not be recommended for reappointment for any reason, he or she may serve the rest of his or her current term, after which a new appointee shall begin his or her service to the Commission.

### 5.0 Meetings

5.1 *Regular meetings.* Regular meetings of the Commission shall be held on the first Wednesday of each month at 6:30 pm at the Town Annex Board Meeting Room; provided, that meetings may be held at some other convenient place and/or time if directed by the chair, if proper notification is given in advance to both the Commission and the public, and if posted at the scheduled meeting place.

5.2 *Special meetings.* Special meetings of the Commission may be called at any time by the chair. At least 48 hours' notice of time and place of special meetings shall be given by the secretary or chairman to each member of the Commission, and the public as required by NCGS. Evidentiary hearings cannot be conducted without the statute required notice.

5.3 *Cancellation of meetings.* Whenever there is no business for the Commission, the secretary may dispense with a regular meeting by the giving of notice to all members and the public not less than 24 hours prior to the time set for the meetings.

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- 5.4 *Quorum.* If no quorum is present after the Secretary does the roll call, then the chair may call for adjournment of the meeting.
- 5.5 *Conduct of meetings.* All meetings shall be open to the public. The public may attend, but public comment shall be limited to those members of the public who have expert testimony or factual evidence directly related to an application on the agenda. Other public comments are permissible at the discretion of the Chair but shall not be used to render the Commission's decision on an agenda item. At the discretion of the Chair, a time limit may be placed on speakers other than the applicant to afford each citizen an equitable opportunity to speak in favor of, or in opposition to, an application. The order of business for regular meetings shall generally be as follows unless otherwise modified: (1) Call to order; (2) Roll call; (3) Confirmation of a quorum; (4) Mission statement; (5) Agenda changes; (6) Minutes review and approval;; (7) Old business items; (8) New business items; (9) Election of officers (if applicable); (10) Updates; and (11) Adjournment.
- 5.6 *Agenda.* The Secretary shall prepare the agenda for the meeting consistent with the order of business listed above. The agenda shall include complete application materials submitted for review and other supporting material for discussion items. Each member shall receive a copy of the agenda, and it shall be available for public inspection and/or distribution when it is distributed to the Commission members. The Commission may, by majority vote or consensus, add an item that is not on the agenda, but cannot add evidentiary hearing items that have not been properly noticed.

### **6.0 Landmarks**

From time to time, the Commission may be asked to consider recommending to the Town Board the adoption of an ordinance designation of a building, structure, site, area or object, as a landmark, or that such landmark designation be revoked or removed for cause. The following rules shall guide the Commission in the process.

- 6.1. When a building, structure, site, area or object is proposed for designation as a landmark, the Commission shall cause an investigation to be made concerning the historical, architectural, pre-historical, educational or cultural significance thereof. The investigation may include review of existing written reports, assessments, analyses and other similar documentation concerning the building, structure, site, area or object.
- 6.2. The results of the investigation conducted pursuant to paragraph 6.1 above shall be compiled into a report, which shall be reviewed by the Commission and, upon the Commission's approval, shall be forwarded to the Office of Archives and History, North Carolina Department of Cultural Resources, for its review and comment.
- 6.3. The Commission shall conduct a public hearing either jointly with the Town Board or separately, on the proposed ordinance. Notice of the public hearing shall be mailed to the owner(s) of the building, structure, site, area or object at least ten (10) but not more than twenty-five (25) days prior to the public hearing, and notice shall also be mailed to adjoining or nearby property owners as stated in paragraph 7.3 below.

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- 6.4 After the public hearing, and after either (a) receipt and consideration of comments from the State Historic Preservation Officer in response to the report submitted pursuant to paragraph 6.2 above, or (b) the expiration of 30 days from submission of the report by the Commission without any response or comments by the State Historic Preservation Officer, the Commission shall make a recommendation to the Town Board concerning the adoption of an ordinance designating the building, structure, site, area or object as a landmark.

### **7.0 Application Procedures**

- 7.1 *Filing of Application.* A complete application must be filed with the secretary on forms provided at least 15 working days prior to the next meeting of the Commission, accompanied by all submittal requirements as deemed necessary by the staff, including but not limited to site plans, elevations, a narrative, and an exterior materials list. The application must comply with the requirements of the Unified Development Ordinance and the Hillsborough Historic District Design Standards. Applications shall be accompanied by the required fees and supporting information. Review and permits needed from other Boards should be secured before an application is heard by the Commission unless otherwise determined by staff. If the other Board(s) tables an application, the Commission should also table any such application until approval is received unless the Commission feels as though a decision can still be made on the item without concurrence from another Board. If the permit(s) are denied, the application to the Commission shall be considered withdrawn.
- 7.2 *Agenda Scheduling.* Applicants are encouraged to submit complete application packages as early as possible, as the Commission allows a maximum of four major certificate applications on each agenda, unless otherwise approved by staff. Any applications that are incomplete or received after the first four deemed complete by staff may be moved to the next agenda with available space. Complete applications for work deemed to be minor, but which still requires commission review, will be added to agendas as space is available at staff's discretion.
- 7.3 *Notice to Neighboring Property.* The secretary shall notify all of the property owners within 100 feet on all sides of the subject property by mail, which shall bear postmarks not less than 10 days prior to the date of the meeting at which the application is to be heard.
- 7.4 *Pre-application Meetings.* It shall be the policy of the Commission in regard to applications involving extensive new structures or alterations or additions to existing structures that the Commission shall be available to meet with the applicant and or representative at some early stage in the design process in order to advise them informally concerning the Commission's standards and guidelines, the nature of the area where the proposed construction is to take place, and other relevant factors. The Commission, collectively and individually, shall refrain from any indication of approval or disapproval, but shall not, for this reason, be barred from reasonable discussion of the applicant's proposals. No advice

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or opinion given, or reported as having been given, by any member of the Commission at such informal meeting shall be in any official or binding upon the Commission at any future time. Notice of the need for such a conference shall be given to applicants by the secretary at the earliest possible time. Such conferences may also be requested by the applicant.

- 7.5 *Decision Timeline.* All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date that a complete application for a Certificate of Appropriateness is filed, unless an extension of time is agreed to by the applicant.
- 7.6 *Approved Application.* If the application is approved, the secretary shall transmit a Certificate of Appropriateness clearly describing the nature of the work which has been approved within 7 business days from the date of approval.
- 7.7 *Denied application.* If the application is denied, a letter describing the reasons for denial shall be sent to the applicant by the secretary within 7 business days from the date of denial. The minutes of the meeting shall also be made available at the Planning Department.
- 7.8 *Revocation of Certificate of Appropriateness.* The Zoning Officer shall revoke any Certificate of Appropriateness where the project is not completed in the same manner as approved by the Commission. Revocation of a Certificate of Appropriateness constitutes a violation of the Unified Development Ordinance and shall be handled as such.

### **8.0 Consideration of Applications**

Any party may appear in person or by agent or attorney at the meeting. All persons addressing the Commission shall be sworn in.

The order of business for consideration of applications for Certificates of Appropriateness shall be as follows:

1. The secretary shall give a presentation of the application including all supporting material submitted.
2. The applicant shall present additional information in support of the application.
3. Statements or arguments in favor or in opposition of the application will be entered into the record by sworn testimony.
4. The chair, or such person as he or she directs, shall summarize the evidence which has been presented, giving all parties an opportunity to make objections or corrections.
5. The Commission shall thereafter proceed to deliberate whether to grant the Certificate or deny the application.

The Commission may, at its discretion, view the premises and obtain additional facts concerning the 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.



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

### **9.0 Reconsideration of Applications which have been denied**

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

1. Notice of possible reconsideration shall be given to the Secretary in advance of the meeting so that the item can be researched and included in the agenda packet. Notifications required in Section 7.3 shall also be made prior to Commission reconsideration.
2. The chair shall entertain a motion from a member of the Commission that the applicant be allowed to present new 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.
3. After receiving the evidence, the Commission shall proceed to deliberate whether or not there has been a substantial change in the facts, evidence, or 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.
4. Staff shall provide written notice of the Commission's decision on reconsideration to the applicant within 7 business days of the date of the meeting at which the decision was made.

### **10.0 Modifications of Applications**

A pending application for a Certificate of Appropriateness may be modified during the Commission's deliberation. Such modifications shall be accompanied by elevations, plans, and sketches where necessary. If the Commission finds that the modification constitutes a substantial change which might affect surrounding property owners, it shall request the Secretary notify affected owners following the procedure set out in Section 7.3 before acting on the application. The Commission shall thereupon treat the request in the same manner as any other application as outlined in Section 7.0.

An approved Certificate of Appropriateness may be modified upon consultation with the Zoning Officer. If he/she finds that the modification constitutes a substantial change which might affect surrounding property owners, he/she shall request that a new application be made to the Commission. Upon re-application, the project shall be treated in the same manner as any other application as outlined in Section 7.0.

### **11.0 Extensions and Re-Applications**



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The Certificate of Appropriateness is valid for a period of twelve months from the date of issuance. If the work approved by the issuance of a Certificate of Appropriateness has not commenced within twelve months, the Certificate becomes inactive. A new Certificate of Appropriateness may be issued by the Zoning Officer if he/she can determine that there have been no changes to the application or significant changes in the neighborhood or regulations during the past twelve months. If the Zoning Officer cannot make this determination, the applicant shall re-apply for a new Certificate of Appropriateness with notification and review procedures the same as a new application.

If the work approved by the issuance of a Certificate of Appropriateness has not been complete within twelve months, the Certificate expires, and the applicant shall apply for an extension to the original application. This extension may be approved by the Zoning Officer if he/she can determine that there have been no changes to the application or significant changes in the neighborhood or regulations in the past twelve months. If this determination cannot be made, the application will be considered with the standard notification and review procedures by the Commission. This review is to ensure that no significant changes have taken place in the neighborhood or regulations in the past twelve months that would make the project unacceptable or incompatible.

A new Certificate of Appropriateness requires payment of a new application fee; however, an extension issued by the Zoning Officer does not require payment of the standard fee.

### **12.0 Design Standards**

In 2021, the Town adopted the updated Hillsborough Historic District Design Standards, which is designed as an interpretive document for the Standards of Evaluation listed in Section 3.12.3 of the Unified Development Ordinance. Applications for Certificates of Appropriateness will be weighed for compatibility against the Hillsborough Historic District Design Standards. Applications for changes to Landmark properties will be evaluated against the Secretary of the Interior Standards for Rehabilitation.

12.1 *Amending the Design Standards.* Any member of the Commission wishing to propose an amendment to the Design Standards shall, at any regularly scheduled meeting, ask the Chair if he or she will call for a motion and a vote to direct staff to research and draft said amendment. Upon a majority vote in favor in the presence of a quorum, staff shall prepare any amendments as directed by the Commission and shall consult with the Town attorney prior to presenting the amendments to the Commission for adoption. Upon review and approval of the language by the Town attorney, the Commission shall act upon the proposed amendment at its next regularly-scheduled meeting. A majority vote of the Commission in favor of adoption in the presence of a quorum shall pass the amendment.

### **13.0 Appeals Procedure (per Section 3.12.12 of the Unified Development Ordinance)**

A decision of the Commission on an application for a Certificate of Appropriateness may be appealed on procedural grounds to the Orange County Superior Court by an aggrieved party. Such an appeal shall be made within 30 days of the filing of the decision in the Planning Department or the delivery of the notice required in Section 3.12.11 of the Unified Development Ordinance, whichever is later. Such appeals to the Orange County Superior Court are in the nature of certiorari and the court shall determine such appeals based on the record generated before the Commission.

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**14.0 Amendments to the Rules of Procedure**

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

Initially approved by the Commission on the 2nd day of December 1982.

Revised and readopted by the Commission the 3rd day of May 2023.

Amended: November 7, 1989

June 6, 1990

July 18, 1990

March 20, 1991

January 15, 1992

July 17, 1996

September 5, 2007

July 3, 2013

August 6, 2014

November 5, 2014

January 7, 2015

November 1, 2017

April 4, 2018

May 2, 2018

August 22, 2018

December 6, 2018

September 6, 2019

December 4, 2019

May 5, 2021

April 5, 2023

May 3, 2023

*Will Senner*

5/3/2023

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Chair, Historic District Commission

Date