

# RUTHERFORDTON HISTORIC PRESERVATION COMMISSION RULES OF PROCEDURE

## **1.0 PURPOSE:**

To establish procedures for organizing the business of the Town of Rutherfordton Historic Preservation commission, hereinafter termed the "commission" for processing applications for Certificates of Appropriateness, and for pursuing the designation of historic properties.

## **2.0 GENERAL RULES:**

The Commission shall be governed by the ordinance establishing the Historic Preservation Commission adopted by Rutherfordton Town Council on August 6, 2007, and by any ordinance adopted by Town Council in the future pertaining to historic properties, districts or landmarks, and by the terms of Chapter 160A Article 19 Part Jc Historic Districts and Landmarks of the North Carolina General Statutes. For procedures not covered by the aforementioned, the commission shall follow the rules contained in the current edition of Rules of Procedures of the Town of Rutherfordton.

## **3.0 JURISDICTION:**

The Commission's jurisdiction for its activities shall coincide with the Town's zoning jurisdiction as delineated and shown on the official zoning map for the Town of Rutherfordton.

## **4.0 OFFICERS AND DUTIES:**

The Commission shall be composed of five (5) members, whose terms of office are set by the Rutherfordton Town Council.

### **4.1 CHAIRPERSON:**

A chairperson shall be elected by the members of the Commission. The chairperson shall decide all points of order and procedures, subject to these rules, unless directed otherwise by a majority of the Commission in session at the time. The Chairperson shall appoint any committees found necessary to investigate any matters before the commission.

### **4.2 VICE CHAIRPERSON:**

A vice-chairperson shall be elected by the Commission from among its members in the same manner as the Chairperson. The vice chairperson shall serve as acting Chairperson in the absence of the chairperson, and at such times shall have the same powers and duties as the chairperson.

### **4.3 SECRETARY:**

A member of the Town staff, designated by the Town Manager, shall serve as the administrative liaison to the commission, shall also serve as secretary to the Commission. The secretary, subject to the direction of the Chairperson of the Commission, shall keep all records, conduct all correspondence of the Commission and generally supervise the clerical work of the Commission. The secretary shall not be eligible to vote on any matters which come before the Commission.

### **4.4 ELECTIONS:**

Election of officers shall be held at the first regular meeting in July. Members shall be notified by the Secretary in writing of the election of officers at least thirty days prior to the regular July meeting.

#### **4.5 ATTENDANCE:**

Faithful and prompt attendance at all meetings of the Commission 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, and should there be no adequate excuse for such absences, the Chairperson, with the concurrence of a majority of the entire Commission, shall recommend to the Town Council that a vacancy be declared and that the vacated position be filled.

#### **4.6 APPLICATIONS INVOLVING MEMBERS:**

No Commission member shall take part in the hearing, consideration or determination of any case in which he/she is a party or has a financial interest.

#### **4.7 IMPARTIALITY:**

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, provided 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.

#### **4.8 KNOWLEDGE OF CONTROLLING RULES AND REGULATIONS:**

Each member of the Commission shall be thoroughly familiar with all statutes, laws, ordinances and rules of procedure relating to historic properties and the authority of the Commission.

#### **5.0 MEETINGS:**

##### **5.1 REGULAR MEETINGS;**

Regular meetings of the commission shall be held on the second Monday of each month at 7:00 p.m. in the Council Room at Town Hall; provided, that meetings may be held at some other convenient place if directed by the Chairperson in advance of the meeting.

##### **5.2 SPECIAL MEETING:**

Special meetings of the commission may be called at any time by the Chairperson. At least forty-eight hours notice of the time and place of special meetings shall be given, by the Secretary or by the Chairperson, to each member of the Commission; provided, that these requirements may be waived by action of a majority of all the members.

##### **5.3 CANCELLATION OF MEETINGS:**

Whenever there is no business for the Commission, the Chairperson may dispense with a regular meeting by giving notice to all members prior to the time set for the meeting.

##### **5.4 QUORUM:**

A quorum shall consist of three (3) members of the commission.

##### **5.5 CONDUCT OF MEETINGS:**

All meetings shall be open to the public. The order of business at regular meetings shall be as follows: (a) roll call; (b) approval of minutes of previous meeting; (c) report of committees; (d) unfinished business; (e) consideration of applications; (f) new business to be brought to the attention of the Commission; (g) adjournment.

## **5.6 CONSULTANTS ALLOWED**

The Chairperson or a majority of the Commission may ask a consultant(s) who is knowledgeable on issues before the Commission to attend any meeting of the Commission. The consultant shall provide information to the commission, but shall not make a motion or vote. During discussion on Certificate of Appropriateness Applications consultants may not participate in the general discussion pertaining to the Application; however, the Chairperson or member of the Commission may ask the Consultant for explanation or expert opinions on issues dealing with the Application.

## **6.0 NOTIFICATION PROCEDURES:**

### **6.1 FILING OF APPLICATIONS:**

An application must be filed with the secretary to the Commission at least ten (10) working days prior to the next meeting of the commission, accompanied by adequate and appropriate sketches, drawings, photographs, specifications, descriptions, etc. of the proposed project.

### **6.2 NOTICE TO NEIGHBORING PROPERTY OWNERS:**

The Secretary shall notify all of the individuals, firms, or corporations owning property adjacent to both sides, directly behind, and the property directly in front of (across the street from) the property being considered for a Certificate of Appropriateness.

### **6.3 REVIEW BY SUB-COMMITTEE:**

It shall be the policy of the Commission in regard to applications involving new construction or extensive alterations that a sub-committee (at least one of which shall be a member of the Commission) appointed by the Commission shall be available to meet with representatives of the persons or organizations involved in the coming application at some early stage in the design process in order to advise them informally concerning the Commission's guidelines, the nature of the area where the proposed construction is to take place, and other relevant factors. This sub-committee collectively and individually shall refrain from any indication of approval or disapproval, but shall not, for that reason, be barred from a reasonable discussion of the applicant's proposals. No advice or opinion given, or reported as having been given, by any member of the sub-committee at such an informal meeting shall be in any way official or binding upon the Historic Preservation Commission at any time. Notice of the need for such a conference should be given future applicants by the Town at the earliest appropriate time.

### **6.4 PUBLIC HEARINGS:**

In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.

### **6.5 TIME FOR DECISION:**

The Commission must take formal action to issue or deny a Certificate of Appropriateness within a reasonable time, not to exceed 180 days from the date the application for a Certificate of Appropriateness is filed. The imposed time limit may be extended upon mutual agreement of the applicant and the Commission.

### **6.6 APPROVED APPLICATION:**

If the application is approved, the Secretary for the Commission shall transmit to the applicant a Certificate of Appropriateness in letter form 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 forward this information to the Town Zoning Administrator who is responsible for its enforcement.

## **6.7 DENIED APPLICATIONS:**

If an application is denied, a copy of the minutes of the meeting and written reasons for denial shall be made available to the applicant by the Secretary.

## **7.0 CONSIDERATION OF APPLICATIONS:**

Any party may appear in person or by agent or attorney at the meeting. The order of business for consideration of applications for Certificates of Appropriateness shall be as follows:

- (a) The Chairperson or such person as he/she shall direct, shall give a preliminary statement describing the application.
- (b) The applicant shall present the arguments in support of the application.
- (c) Persons opposed to granting the application shall present the arguments against the application.
- (d) Statements or arguments submitted by an official, commission, or department of the Town of Rutherfordton, any state agency, or any local historical, preservation or neighborhood association shall be presented as directed by the Chairperson;
- (e) The Chairperson or such person as he/she shall direct shall summarize the evidence which has been presented, giving all parties an opportunity to make objections or corrections.
- (f) The Commission shall thereafter proceed to deliberate whether to grant the application or to deny it.

The Commission may, in its discretion, view the premises and obtain additional facts concerning any application before arriving at a decision. All decisions of the Commission shall be supported by appropriate findings of fact, and where necessary, shall be accompanied by such conditions and/or recommendations as it may determine to be reasonable under the circumstances. In considering applications, witnesses may be called and factual evidence may be submitted, but the Commission shall not be limited to consideration of such evidence as would be admissible in a court of law.

## **8.0 RECONSIDERATION OF APPLICATIONS WHICH HAVE BEEN DENIED:**

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

- (a) The Chairperson shall entertain a motion from a member of the Commission that the applicant be allowed to present evidence in support of the request for reconsideration. Such evidence shall be limited to that which is necessary to enable the Commission to determine whether or not there has been a substantial change in the facts, evidence or conditions relating to the application; provided, however; that the applicant shall be given the opportunity to present any other additional supporting evidence, if the Commission decides to reconsider the application.
- (b) After receiving the evidence, the Commission shall proceed to deliberate whether or not there has been a substantial change in the facts, evidence 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.

## **9.0 MODIFICATIONS OF APPLICATIONS:**

An approved or pending application for a Certificate of Appropriateness may be modified by a written request from the applicant to the Commission. Such a request shall include a description of the proposed change and shall be accompanied by elevations, plans or sketches, where necessary. If the Commission finds that the modifications constitute a substantial change which might affect surrounding property owners, it shall request the applicant to notify affected property owners following the procedures set out in Section 6.2 before taking action on the modification. The Commission shall thereupon treat the request in the same manner as any other application as outlined in Section 6.0.

## **10.0 VOTE:**

The vote of a majority of Commission members present shall be sufficient to decide matters before the Commission, provided a quorum is present. The exception is an Application for Certificate of Appropriateness where the vote shall require a majority of the Commission.

## **11.0 APPEALS:**

Appeals from decisions of the Commission shall be made to the Board of Adjustment within thirty days of the approval by the Commission of the minutes of the meeting containing the decision being appealed.

## **12.0 DESIGNATION OF HISTORIC PROPERTIES (DISTRICTS AND LANDMARKS):**

### **12.1 IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES:**

The Commission shall maintain an inventory of properties thought to have historical, architectural, pre-historical, and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Division of Archives and History (State of North Carolina) for comment. Listing in the inventory shall be a prerequisite for pursuing local designation as a historic district or landmark.

### **12.2 INITIATING THE DESIGNATION OF HISTORIC PROPERTIES:**

Any individual or group with interest in historic preservation may seek the Historic Preservation Commission's assistance in advancing a certain property for designation consideration. A property owner(s) may request and enlist the assistance of the Commission in pursuing the designation of property which he/she/they own. Also, the Commission may of its own volition initiate the local designation of historic properties. When designation is not being initiated by the property owner, the Commission shall notify the owner of the designation initiative and extend to the affected property owner(s) an opportunity to appear before the Commission at a regularly scheduled meeting to voice' his/her support, or lack thereof, for the designation efforts.

### **12.3 DESIGNATION RECOMMENDATIONS:**

The Commission shall forward local designation recommendations to the Town Council for formal action. No property shall be recommended for designation unless it is deemed and found by the Commission to be of special significance in terms of its historical, pre-historical, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association. A report addressing these items shall be prepared in writing and upon review and formal approval of the commission shall be forwarded to the Division of Archives and History for comment. After which, the same, along with any comments obtained from the state agency, shall be presented to the city Council for consideration prior to formal action being taken on the designation of historic properties.

**12.4 TOWN COUNCIL DESIGNATION:**

The designation of a historic landmark or district shall be effective through the adoption of an ordinance by the Town Council. Upon adoption of the ordinance, the owners and occupants of each designated landmark or property within a designated district shall be given written notification of the designation along with a copy of historic properties regulations.

**13.0 AMENDMENTS:**

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than four (4) 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.