

RULES OF PROCEDURE

NEW BERN

HISTORIC PRESERVATION COMMISSION

1.0 PURPOSE

To establish procedures for organizing the business of the New Bern Historic Preservation Commission, hereafter termed "Commission", and processing applications for certificates of appropriateness for (1) any changes in the external appearance of existing structures and sites, (2) design of new structures; and (3) for demolition of existing structures within the New Bern Historic Districts, hereafter called "Districts."

2.0 GENERAL PURPOSE

The Commission shall be governed by the terms of the Historic District Ordinance as contained in the New Bern Land Use Ordinance and by the terms of North Carolina General Statutes, Chapter 160A, Article 19, Part 3.C, Historic Districts and Landmarks 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 Roberts' Rules of Order.

3.0 JURISDICTION

The Commission's jurisdiction for its design review activities shall be the New Bern Historic Districts.

4.0 MEMBERS, OFFICERS AND DUTIES

The Commission shall be composed of nine (9) members, whose terms of office are set by the New Bern Board of Aldermen.

4.1 CHAIRMAN

A chairman shall be elected by the members of the Historic Preservation Commission. The Chairman 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.

4.2 VICE-CHAIRMAN

A vice-chairman shall be elected by the Commission from among its members in the same manner as the chairman. The vice-chairman shall serve as chairman in the absence of the chairman, and at

such times shall have the same powers and duties as the chairman.

4.3 ADMINISTRATOR

A member of the staff, designated by the city manager, shall serve as administrator to the Commission. The administrator, subject to the direction of the chairman of the Commission, shall keep all records, conduct all correspondence of the Commission and generally supervise the clerical work of the Commission. The administrator shall not be eligible to vote upon any matter.

4.4 ELECTIONS

Election of officers shall be held at the first regular meeting in July.

4.5 ATTENDANCE AT MEETINGS

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 (3) consecutive regular meetings of the Board, and should there be no adequate excuse for such absences, the chairman with the concurrence of a majority of the entire Commission, shall recommend to the City Board of Aldermen that a vacancy be declared and that the vacated position be filled. Members shall notify the Commission administrator of contemplated absences, preferably at least 48 hours prior to scheduled meeting.

4.6 MATTERS INVOLVING COMMISSION MEMBERS

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

4.7 QUALIFICATION TO VOTE

No Commission member shall vote on an matter deciding an application or a request to reconsider unless that member shall have attended the Commission's previous deliberations on such matter. Provided, however, such member may be approved by the chairman to vote on such matters if the member assures the chairman that the member has read the application and the minutes of any meetings at which the application was discussed.

4.8 IMPARTIALITY REQUIRED

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

Members of the Commission shall not express individual opinions on the proposed judgment of any application with any persons prior to the determination of that application, except in accordance with these rules. Violation of this rule shall be cause for dismissal from the Commission.

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.

5.0 MEETINGS

5.1 REGULAR MEETINGS

Regular meetings of the Commission shall be held on the third Wednesday of each month at 6:30 p.m. in the Planning and Inspections Department, third floor of the Dunn Building; provided that meetings may be held at some other convenient place if directed by the Chairman in advance of the meeting.

5.2 WORK SESSIONS

Work sessions shall be held on the first Wednesday of the month at 5:30 p.m. in the Planning and Inspections Department, third floor of the Dunn Building; provided that such session may be held at some other convenient place if directed by the Chairman in advance of the meeting. Work sessions are voluntary for Commission members and do not affect attendance requirements.

5.3 SPECIAL MEETINGS

Special meetings of the Commission may be called at any time by the chairman. At least (48) hours notice of the time and place of special meetings shall be given, by the administrator or by the chairman, to each member of the Commission and to the local newspaper with the greatest circulation.

5.4 CANCELLATION OF MEETINGS

Whenever there is no business for the Commission, the chairman may dispense with a regular meeting and a work session by giving notice to all members and the local newspaper with the greatest circulation not less than forty-eight (48) hours prior to the time set for the meeting. The chairman may elect to hold a work session despite the cancellation of the regularly scheduled meeting, in which case notification procedures outlined in above Section 5.3 would be followed.

5.5 QUORUM

A quorum shall consist of five (5) members of the Commission. No business shall be conducted with less than a quorum.

5.6 CONDUCT OF MEETINGS

All meetings shall be open to the public. The order of business at regular meetings shall be as follows: (1) roll call; (b) administering of oath; (c) approval of minutes of previous meeting; (d) consideration of applications; (e) old business; (f) new business and committee reports; (g) adjournment.

6.0 APPLICATION PROCEDURES

6.1 FILING OF APPLICATION

An application must be filed with the administrator at least two (2) weeks prior to the next meeting of the Commission, accompanied by sketches, drawings, photographs, specifications, descriptions, etc. of the proposed project. A pre-application review is required for certain projects according to Section 15-428 of the Historic District Ordinance. No application will be accepted for consideration by the Commission which does not meet all the applicable zoning and code requirements and has not received official approval by the Zoning Administrator.

6.2 NOTICE TO NEIGHBORING PROPERTY OWNERS

Using stamped addressed envelopes supplied by the applicant, the administrator shall notify by mail the affected property owners within 100 feet of the legal boundary line of the subject property. Notification letters must be postmarked no later than seven (7) calendar days prior to the meeting at which the matter is to be heard.

6.3 REVIEW OF SUBCOMMITTEE

The Commission may provide a subcommittee for any project involving new structures or extensive alterations and/or additions to existing structures that meet the criteria set forth in Section 15-428. The committee shall be available at an early stage in the design process to advise the applicant informally regarding the Commission's guidelines and other relevant factors. This subcommittee, 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 proposal. No advice or opinion given, or reported as having been given, by any member of the subcommittee at such an informal meeting shall be in any way official or binding upon the Commission at any time.

6.4 PUBLIC HEARINGS

It is the policy of the Commission that its regularly scheduled meetings be organized in a public hearing format in which general comments from the public are invited.

6.5 TIME OF DECISION

The Commission must issue or deny a certificate of appropriateness within sixty(60) days after the filing of an application, except when the time limit has been extended by mutual agreement between the applicant and the Commission.

6.6 APPROVAL OF APPLICATION

If an application is approved, the administrator for the Commission shall transmit a certificate of appropriateness in letter form, describing the nature of the work and any stipulations that have been approved. A copy of this information shall be maintained in the files of the New Bern Planning and Inspections Department.

6.7 DENIED APPLICATIONS

If an application is denied, written reasons for denial shall be made available to the applicant.

6.8 APPEAL OF DECISIONS

Any party can appeal a decision of the Commission by submitting a written appeal to the administrator of the Commission within ten (10) calendars days of the Commission's action (see Section 15-428 (k), New Bern Land Use Ordinance).

6.9 WAIVER OF FILING SCHEDULES AND NOTICE IN CASE OF DISASTER RELATED REPAIRS

Notwithstanding any other provision of this section, in cases in which a state of emergency or disaster has been declared by the City of New Bern or its authorized elected officials as a result of natural or manmade events, the Commission may, in its sole discretion, waive all application deadline requirements and requirement of notice to neighboring property owners in an effort to expedite the review of applications for certificates of appropriateness addressing disaster related repairs to buildings and structures within the Historic Districts. Waiver of said filing deadline and notice requirements shall not relieve the applicant/property owner of making permanent repairs that meet the established, guidelines and standards for improvements in the Historic Districts which require a certificate of appropriateness. The Commission may, in its sole discretion, authorize temporary repairs to be made which may be left in place during a period not to exceed six (6) months so that the applicant/property owner may attempt to weatherproof or stabilize a damaged building/structure. (6.9 Added August 7, 1996)

7.0 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. The order of business for consideration of applications for certificate of appropriateness shall be as follows:

- (a) The chairman, or such person as he shall direct, shall give a preliminary statement describing the application;
- (b) Staff shall show a videotape of the project site and/or give a brief summary of the proposed project;
- (c) The applicant shall present the arguments in the support of the application;
- (d) Persons supporting the application shall present the arguments for the application;
- (e) Persons opposed to granting the application shall present the arguments against the application;
- (f) Statements or arguments submitted by any official, commission, or department of the City of

New Bern, any state agency, or any local historical, preservation or neighborhood association shall be presented as directed by the chairman;

(g) The applicant or his agent may provide rebuttal to opposing arguments to the extent of providing clarification of presented evidence or new information;

(h) The chairman or such person as he shall direct shall summarize the evidence which has been presented, giving all parties an opportunity to ask questions or make objections;

(i) 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.

7.1 AMENDMENTS TO A PREVIOUSLY APPROVED CERTIFICATE OF APPROPRIATENESS.

Amendments to a previously approved application for a certificate of appropriateness may be approved by the Commission under "old business" if the change is not substantial and the project for which the COA was granted has not been completed and/or a final Certificate of Occupancy has not been issued by the Building Inspector. Such amendments will not require the submission of a new application form to the Commission and the notification of neighboring property owners as detailed in 6.2. All other amendments will be treated as new applications and shall be subject to the procedural and notification requirements set forth in the New Bern Land Use Ordinance. (7.1 Added June 5, 1996)

Adopted: November 2, 1983
Amended: September 7, 1994
Amended: June 5, 1996
Amended: August 7, 1996
Amended: June 5, 2002

Amended this 5th day of June, 2002.

Annette D. Stone, AICP
Administrator