

Wilson Historic Preservation Commission Rules of Procedure

(as adopted 2/5/03)

I. Purpose

To establish procedures for organizing the business of the Wilson Historic Preservation Commission, hereafter termed "Commission", and processing applications for Certificates of Appropriateness "COA" for: changes in the external appearance of existing landmarks and district properties; design of new structures; and demolition of landmarks or structures within locally designated historic districts.

II. General Rules

The Commission shall be governed by the terms of Section 8.42 of the City of Wilson Zoning Ordinance hereby referenced, and by the terms of NC General Statutes 160A-400.1 et seq. as they may be amended or revised (also hereby referenced). For procedures not covered by these rules, the Commission shall follow the rules contained in the current edition of Roberts' Rules of Order.

III. Jurisdiction

The Commission's jurisdiction for requiring Certificates of Appropriateness includes all locally designated landmarks and properties located in locally designated historic districts throughout the City of Wilson. Districts are delineated on the official zoning map.

IV. Members/Officers

A. Members/Responsibilities

1. Appointment

The Historic Commission shall be comprised of nine (9) members who reside in Wilson. Members are appointed by the Wilson City Council.

2. Qualifications

- a) The majority of commission members shall have demonstrated special interest, experience, or education in historic preservation, history, architecture, archaeology, or related fields.
- b) Reasonable effort shall be made to appoint members who live in or own property in an historic district or landmark.

3. Term

- a) Annual term begins October 1 and extends through September 30
- b) Members serve staggered three year terms
- c) Members are eligible for reappointment.

4. Attendance

- a) Faithful and prompt attendance at all regular meetings of the Commission and conscientious performance of the duties required of members shall be a prerequisite to continuing membership of the Commission.
- b) The Chairman shall remove members who fail to attend three consecutive regular meetings, or four of the regular meetings during an annual term that are not excused by the Commission.
- c) Members who fail to attend three consecutive regular meetings, or four of the regular meetings during an annual term that are not excused by the Commission shall be reported to the City Council with the recommendation for replacement.
- d) Upon removal, resignation by other means, or other vacancies occurring in office, notification to the City Council shall be made promptly so replacement may be made.
- e) Should there be any question, the commission will vote to decide if an absence should be excused.
- f) Other excuses will be heard by the commission and a determination of "excused" will be made at that time.
- g) Failure to notify the staff in advance of absence may be considered unexcused.
- h) Absence from specially called meetings shall be exempted from the attendance policy.

5. Duties

- a) Each member of the Commission shall familiarize themselves with all statutes, laws, ordinances, rules of procedure and guidelines relating to the landmarks, districts and the Commission.
- b) Members of the Commission should avoid discussion of any application prior to the hearing. However, should discussion have taken place, this shall be disclosed at the onset of the hearing and the Commission shall decide if the member should be removed from deliberations. Members may at any time, seek and/or receive information pertaining to the application from staff.

6. Qualification to Vote

- a) No Commission member shall take part in the hearing, consideration, or determination of any case in which he is a party or has a direct financial interest.
- b) No Commission member shall vote on a matter unless he has attended the Commission's previous deliberations on such application, reviewed the case, been briefed on the issue, or has the approval of the Chairman to do so.
- c) The chairman shall exercise his right to vote only in the event of a tie.

B. Officers/Duties

Election of officers shall be held by Commission members within 60 days of annual term appointments (term runs October 1 – September 30). Members shall be notified by the Secretary of the election of officers prior to the meeting.

1. Chairman

A Chairman shall be elected following the annual appointments, shall serve until replaced, and shall be eligible for re-election. The Chairman decides 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. He shall have equal rights, privileges, and duties in all matters, except the Chairman's right to vote.

2. Vice Chairman

A Vice Chairman shall be elected by the Commission in the same manner and for the same term as the Chairman. The Vice Chairman shall serve as the acting Chairman in the absence of the Chairman, and at such times shall have the same powers and duties as the Chairman.

3. Secretary

The community resource planner shall serve as Secretary, subject to the direction of the Chairman and Commission. He shall keep all records, minutes, conduct all correspondence of the Commission and generally supervise the clerical work of the Commission. The secretary shall not be eligible to vote.

V. Meetings

Meetings of the Commission shall be held in accordance with the NC Open Meetings Law, NC General Statutes chapter 143, a. 33C.

A. Notice of Meetings

Notice of meetings shall be included on the City Calendar. In addition, the Wilson Daily Times, internet home page, and public educational television channel may be used for notice as appropriate. In the event of a special or canceled meeting, notice shall be placed on the entrance to City Hall. Applicants and affected property owners will be notified by mail or telephone, as applicable.

B. Regular Meetings

Regular meetings of the Commission shall be held on the first [business] Wednesday of each month at 5:30 p.m. in the City Council Chambers, third floor of the Municipal Building. Meetings may be held at another location or at another time if the Chairman so directs in advance of the meeting. All public business will be transacted at official commission meetings.

C. Special Meetings

Special meetings of the Commission may be called at any time by the Chairman or Staff. At least twenty-four (24) hours notice of the time, place, and subject of the special meeting shall be given by the secretary or the Chairman. This requirement may be waived by action of a majority of all voting members, or in the event of a natural disaster or state of emergency.

D. Electronic Meetings

Meetings held by conference telephone or other electronic means must be open to the public. A place and means by which the public can listen shall be established. Listeners may be charged a fee to defray such cost.

E. Cancellation of Meetings

Whenever there is no business before the Commission, regular meetings may be cancelled or rescheduled by the Chairman provided notice is given to all members. Notice of cancellation shall be posted at the entrance to City Hall.

F. Rescheduling of Meetings

Whenever there is a need to reschedule a regular meeting, the Chairman may do so by giving notice to all members, applicants, and interested parties. Whenever possible, notice should be made twenty-four (24) hours prior to the meeting time. Notice of rescheduling shall be posted on the entrance to City Hall.

G. Quorum

A quorum shall consist of a simple majority of appointed members of the Commission.

H. Voting

1. The vote of a majority of those members present shall be sufficient to decide any matter before the Commission, provided a quorum is present.

2. Failure to vote by a member who is physically present (except when excused for conflict of interest) or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.
3. In the event of an equal division on any question, the Chairman shall cast the deciding vote.

I. Conduct of Meetings

1. All meetings of the Commission shall be open to the public.
2. The usual order of business at regular meetings is as follows: (a) roll call, noting the presence of a quorum; (b) approval of minutes; (c) new business including COAs; (d) old business; (e) miscellaneous business, including reports of committees; and (f) adjournment.

J. Hearings

To ensure a thorough hearing of all points of view on a matter before the commission, the general public may be notified and given an opportunity to be heard. For "Major Works" (including but not limited to projects involving: new construction, additions, demolition, moving, and remodeling where there is a change in materials or design. See Guidelines for additional Major Works.), a public hearing is required; for "Minor Works" not approved by staff, it is optional.

1. At a public hearing, a record is made of the views expressed and by whom. The Commission shall base its decision on findings of fact, with reference to guidelines the application meets or fails to meet, and the determination of incongruity. Relevance of additional information presented shall be determined by the Commission.
2. Landmark Designation
The commission and City Council may hold a joint public hearing or separate hearings on a proposed ordinance to designate a landmark. The Commission must find that the proposed landmark possesses the special significance and integrity of design and materials required for designation. The City Council then makes the final decision based on the landmark designation report, comments from the State Historic Preservation Office, the public hearing, all available information, and the findings of the commission.
3. District Designation
The Commission may hold a public hearing to help decide recommendation of a proposed district, however, it is not mandated, as the local governing board makes such designations by adopting or amending a zoning ordinance, which requires public hearing at planning board and City Council.

VI. Certificate of Appropriateness (COA)

A. Required

1. From and after the designation of a landmark or an historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor above-ground utility structure, nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on such landmark or within such district, until after an application for a certificate of appropriateness as to exterior features has been submitted and approved by the preservation commission.
2. COA is required prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures.
3. COA may be issued subject to reasonable conditions necessary to carry out the purposes of this part. COA shall be required regardless of whether or not a building permit or other permit is required."
4. Property owners cited for violations shall apply for an "After the Fact" COA, within the time prescribed by the notice of violation.
5. Violation cases shall be heard as though the change is being proposed.
6. COA conditions shall be complied with in the prescribed time or owner shall be subject to zoning violation proceedings and penalties.
7. Violation of a COA and/or attached conditions constitutes a violation of the zoning ordinance.

B. Application/Notification

1. Applicant must be property owner or agent for owner.
2. Filing Application who has standing to be an applicant?
A complete application must be filed with the Secretary, located in the City of Wilson Development Services Department, three (3) weeks prior to the next regular meeting of the Commission. Staff will be available to meet with and advise the applicant on the project. Each applicant shall provide sketches, drawings, photographs, specifications, descriptions, and other information of sufficient detail to clearly illustrate the proposed exterior alterations, additions, changes, or new construction.
3. Notice to Neighboring Property Owners
The Secretary shall attempt to notify by mail, property owners likely to be materially affected, typically those within 100 feet on all sides of the subject property. This will be done no less than one week prior to the meeting at which the matter is to be heard.

C. Review of Applications/Public Hearing

“Major Works” cases, and violations require public hearing.

1. Order of Deliberations

Any party may appear in person or by agent or attorney at the meeting. All persons addressing the Commission shall be sworn in or affirmed. The order of business for consideration of applications for COA will be as follows:

- a) staff will swear or affirm all witnesses;
- b) staff gives a preliminary statement describing the application;
- c) the applicant may confirm or deny the accuracy of staff presentation, and offer additional information and evidence in support of the application;
- d) parties wishing to speak in support of the application are heard;
- e) persons opposed to granting the application present arguments against the application;
- f) the applicant is allowed to cross-examine witnesses.
- g) statements or arguments submitted by any official, Commission, City of Wilson department, state agency, or local historical, preservation or neighborhood association may be presented as directed by the Chairman;
- h) the Chairman may summarize the evidence which has been presented, giving all parties an opportunity to make objections or corrections;
- i) public hearing is closed;
- j) the Commission thereafter proceeds to deliberate whether to grant the application or to deny it.

2. Basis of Findings

- a) In acting upon a COA, the Commission shall evaluate the proposed activity as it relates to the following:
 - (1) Impact on the subject property. This may include: design; materials; style; setback and placement; architectural features, fenestration; appurtenant features; signage; color; landscape, natural and archaeological features; and structural condition.
 - (2) Congruity with the characteristics of the subject property. [A determination of “incongruous” indicates the proposed change does not reflect the characteristics of the property or its surroundings; a determination of “not incongruous” indicates that the proposed change is appropriate to the property or its surroundings, and reflects that there may be more than a single alternative that might otherwise be inferred with a determination of “congruous”].
 - (3) [For district properties,] Characteristics of contributing structures [as determined in the National Register nomination] on the “blockface” (defined as those properties on the same side of the street, and between intersecting cross-streets).
 - (4) If the subject property is located on a corner, additional properties on the contiguous blockface will be considered.
 - (5) [For district properties] Congruity with the surrounding district properties.
- b) In acting on a COA, the Commission may consider characteristics of the following in their review:
 - (1) Properties located on the opposing blockface.
 - (2) Adjoining properties not located within the boundaries of the historic district.
- c) In reviewing applications, greater significance is placed on changes visible from a public right-of-way. AVC, or Area of Visual Concern, is defined as follows:
 - (1) Primary AVC includes that portion of the property which is visible from the front property line, and may include the side yards of corner properties.
 - (2) Secondary AVC includes that portion of a property which is typically located at the sides of the primary structure, and may be partially buffered from front view.
 - (3) Tertiary AVC includes those areas, typically at the rear of the property, where a change would not be visible from a public right of way.
 - (4) The front plane of the house is defined as the exterior wall most closely located to the front of the property. Porches are not considered when determining the front plane unless permanently enclosed. Where one side of the structure projects further than the other, the front plane is defined as imaginary lines drawn from the outermost front corners of the structure to the adjacent side property lines.
- d) Intent
It is the intent of the Commission to apply reasonable discretion in the exercise of its duties and responsibilities in acting upon COAs. Commission members should be cognizant of the interests and needs of property owners, and may give important consideration in their efforts to balance historic preservation with the desires of the property owner.
- e) Guidelines
 - (1) Guidelines for Property Improvements are established by the Historic Preservation Commission.

- (2) Guidelines are based on the Secretary of the Interior's *Standards and Guidelines for Rehabilitating Historic Buildings*, and established/accepted historic preservation practices and polices.
- (3) The Commission will reference their findings to the appropriate clause from their current set of Guidelines for Property Improvements.
- (4) The Commission may utilize the Secretary of the Interior's Standards for Rehabilitating Historic Buildings and Guidelines for Property Improvements, or other appropriate guidelines, in evaluating applications for COA.

3. View/Additional Facts/Findings

The Commission may, in its discretion, view the premises and obtain additional facts and information concerning any application before making a decision.

4. All decisions of the Commission shall be supported by appropriate findings of fact, and when necessary, shall be accompanied by reasonable conditions and/or recommendations.

5. Witnesses/Evidence/Limitations

- a) In considering applications, witnesses may be called and factual evidence may be submitted.
- b) The Commission shall not be limited to consideration of such evidence as would be admissible in a court of law.
- c) The Commission may limit the evidence presented to that pertaining to the aesthetics of the subject property and blockface.
- d) The Commission may limit the time allowed for individuals to speak.
- e) The Commission shall ensure that if the State Historic Preservation Office provides any archaeological knowledge about properties or sites, the location and other confidential information shall be kept confidential.

D. Decision/Vote

1. Decision by Commission

- a) Commission's decisions must be supported by findings of fact.
- b) If the Commission fails to take final action upon any application within one hundred eighty (180) days after the complete application is received by the secretary, it shall be deemed to be approved, and a COA shall be issued.
- c) An extension of time where mutual agreement has been reached between the applicant and Commission may be granted.

2. Vote

- a) The vote of a majority of those members present shall be sufficient to decide matters before the Commission, provided a quorum is present.
- b) Members removed for conflict of interest shall be counted as present in the determination of a quorum.
- c) Commission members shall not vote on matters of which they are not informed.
- d) Motions shall include the following: determination of completeness of the application; motions for findings of fact; motions for determination of congruity; and motion to issue or deny COA.
- e) In the event of a tied vote, the Chairman shall exercise his right to vote.

(1) Approval

- (a) If the application is approved, staff shall transmit a letter or COA placard, clearly describing the nature of the approved work, to be displayed at the project site until the completion of the project.
- (b) Staff shall forward a copy of the adopted minutes of the meeting at which approval was granted.
- (c) A copy of the information shall be written into the building permit or other permit with conditions noted, and forwarded to the Division responsible for its enforcement (ie: Minimum Housing, Code Enforcement, etc.).

(2) Approval with Conditions

- (a) The Commission may approve an application subject to reasonable conditions.
- (b) For properties located in an historic district, the Commission may approve a demolition subject to a delay of up to a maximum of 180 days.
- (c) For landmark properties, the Commission may approve a demolition subject to a delay of up to a maximum of 365 days.
- (d) The maximum delay shall be imposed if it has been determined that a reasonable chance for rehabilitation or sale exists.
- (e) A reduced delay period may be issued for non-contributing structures.

(3) Denial

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.

- (4) Modification of Application
An approved or pending application for COA 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 modification constitutes a substantial change which might affect surrounding property owners, it shall notify affected property owners before taking action on the modifications. The Commission shall thereupon treat the request in the same manner as a new application.
- (5) Reconsideration
The order of business for reconsideration of applications for COA which have previously been denied shall be as follows:
 - (a) The Chairman shall entertain a motion from a member 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 his 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.

E. Economic Hardship

1. When a claim of undue economic hardship is made, the commission shall schedule a hearing on the claim at its next regular meeting, within the limitations of its procedures for application deadlines.
2. When a claim of undue economic hardship is made, the owner/parties in interest must provide evidence during the hearing upon the claim, describing the circumstances of hardship. The minimum evidence shall include for all property:
 - a) Nature of ownership (individual, business, or non-profit, or legal possession, custody, and control,.
 - b) Financial resources of the owners and/or parties in interest,.
 - c) List of all real estate owned (in full or in part) by the applicant.
 - d) Cost of repairs.
 - e) Assessed value of the land and improvements.
 - f) Real estate taxes for the previous two (2) years
 - g) Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance.
 - h) Annual debt service, if any for previous two (2) years.
 - i) Any listing of the property for sale or rent, price asked, and offers received, if any.In addition, for income-producing property the following will be required:
 - a) Annual gross income from the property for the previous two (2) years.
 - b) Itemized operating and maintenance expenses for the previous two (2) years, including proof that adequate and competent management procedures were followed.
 - c) Annual cash flow, if any, for the previous two (2) years.
 - d) The commission may require that an owner and/or parties in interest furnish such additional information as the commission believes is relevant. The commission shall also state which form of financial proof it deems relevant and necessary to a particular case.
 - e) In the event that any of the required information is not reasonably available to the owner and/or parties in interest and cannot be obtained by the owner, the owner shall describe the reasons why such information cannot be obtained.
3. Within sixty days of the commission's hearing on the claim, the commission shall cause to be made a finding of undue or no undue economic hardship and shall enter the reasons for such finding into the record. In the event of a finding of no undue economic hardship, the commission shall report such finding to the Inspector, and he shall cause to be issued an order for such property to be repaired within the time specified.
4. In the event a finding of undue economic hardship, the finding shall be accompanied by a recommended plan to relieve the economic hardship. This plan may include, but is not limited to, property tax relief as may be allowed under North Carolina law, loans or grants from the city or other public, private

or nonprofit sources, acquisition by purchase or eminent domain, building code modifications, changes in applicable zoning regulations, or relaxation of the provisions of this article sufficient to mitigate the undue economic hardship. The commission shall report such finding and plan to the Inspector who shall cause to be issued an order for such property to be repaired within the time specified, and according to the provisions of the recommended plan.

F. Executive Session

Executive sessions may be held by the Commission to:

- (1) consider acquisition or leasing of interest in real property (however, final authorization to acquire or lease must be given at an open meeting).
- (2) To consider employment, performance, or discharge of public employees or independent contractors (however, action must be taken at an open meeting).
- (3) To consult with an attorney, to the extent that confidentiality is required by legal ethics.
- (4) To consider information that by state or federal law must be kept confidential.

G. Appeal

1. Appeals from the decision of the Commission may be taken by any aggrieved party to the City of Wilson Board of Adjustment within 45-60 days after the commission's decision is rendered.
2. Appeals shall be in the nature of certiorari.
3. Any appeal from the Board of Adjustment's decision shall be heard by the Superior Court of Wilson County.

VII. Amendments

These rules may, within the limits allowed by law, be amended at any time by the Commission, in accordance with the voting rules, 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.

VIII. Record Keeping and Reporting

A. Minutes

The quasi-judicial actions of the commission must be documented in the minutes, as they are the official public record. The standard format of minutes should contain:

1. The time and place of the meeting.
2. The names of those in attendance and the names of absent commission members.
3. A summary of evidence presented to the commission on each matter, indicating whether witnesses were sworn.
4. A summary of the discussion of each matter.
5. The verbatim wording of each finding of fact, resolution or recommendation considered or voted on, and any crucial statements made in the hearing.
6. The reasons for each action taken by the commission.
7. The names of members dissenting.

B. Tape Recording

An audio recording of the meeting may be made, and may be used to verify accuracy of the minutes. Tapes must be kept until the time limit for appeal has elapsed.

C. Reporting

The Commission should submit reports annually to the local governing boards, summarizing the commission's activities, accomplishments, and budget.