



**City of Wilson
Historic Preservation Commission**

Rules of Procedure

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Section 1: Introduction

1.1. Purpose

To establish procedures for organizing and conducting the business of the Wilson Historic Preservation Commission, hereafter referred to as the Commission, in executing its duties and responsibilities.

1.2. General Governing Statutes, Ordinances, and Rules

The Commission shall be governed by the terms of the Wilson Unified Development Ordinance [UDO] and by the applicable provisions of NCGS 160A, Article 19, Part 3C as they may be amended or revised; and by other relevant policies established by City Council. The Commission shall also be governed by these rules to the extent that they do not conflict with the law. For procedures not covered by these rules, the Commission shall follow the rules contained in Roberts Rules of Order, except that the legal requirements for Certificates of Appropriateness will supersede Roberts Rules. These rules are public record.

1.3. Jurisdiction

The Commission's jurisdiction for review and approval of Certificates of Appropriateness within the Historic Overlay District, as required by the UDO, is delineated on the Official Zoning Map. All locally designated Historic Districts and Historic Landmarks shall be part of the Historic Overlay District.

Section 2: Organization of the Board

2.1. Membership

The Commission shall be made up of nine [9] members.

2.1.1 Residency, Appointment, and Qualifications of Members

All members shall be residents of the City of Wilson. City Council shall appoint all members. Members shall have demonstrated experience, education, or interest in historic preservation, architecture, history, archaeology, or related disciplines.

2.2. Terms of Office

Members shall serve a three [3] year term and may succeed themselves. Membership terms shall continue to be staggered and the terms of all members shall not expire at the same time.

2.3. Election of Officers

Annually, at the end of the regular meeting in the month of September, the Commission shall elect from its membership a Chairperson and Vice Chairperson. Nominations shall be moved and seconded, and any number of members may be nominated. Voting may be done by acclamation [if only one member is nominated], show of hands, voice, or by secret ballot following a motion and majority vote of the members. The voting period shall remain open for 24 hours to allow for electronic voting from absent members. The newly elected Chairperson and Vice Chairperson shall assume their office on September 15th. The Chairperson and Vice Chairperson shall serve terms of one [1] year and shall be eligible for re-election.

2.4. Chairperson

The Chairperson shall preside at all meetings and public hearings, make committee appointments, and decide all points of order and procedure subject to these rules unless directed otherwise by a majority of the Commission in session at that time. The Chairperson does not have the right to vote, but shall have the right to break a tie vote in which he or she participated.

2.5. Vice Chairperson

The Vice Chairperson shall serve as acting Chairperson in the absence of the Chairperson and at such time have all the powers, duties, and voting rights as the Chairperson.

2.6. Designation of Administrator

A staff member of the Planning and Community Revitalization Department shall serve as Administrator. The Administrator, subject to the direction of the Chairperson and Commission, shall keep all records, shall conduct all correspondence of the Commission, and shall generally perform the clerical work of the Commission. The Administrator shall keep the minutes of every meeting of the Commission. The minutes shall show the record of all relevant facts pertaining to each meeting, every resolution acted upon by the Commission and all votes of the

Commission members upon any recommendation, resolution or upon the final determination of any questions before the Commission, indicating the names of members absent or failing to vote. The Administrator shall provide professional and technical support to the Commission, which may include preparation of meeting materials, presentations and recommendations, conducting official correspondence, and other staff support as requested by the Commission.

Section 3: Attendance Policies and Vacancies

3.1. Attendance

Persons accepting appointment to the Commission have made a commitment to serve the citizens of Wilson. Applicants coming before the Commission deserve a full complement of members to be present to review and decide matters. Faithful attendance at meetings of the Commission is expected.

3.2. Approved Absences

A member who will be unable to attend the regular meeting of the Commission must contact the Administrator at least twenty-four [24] hours before the scheduled meeting and indicate the reason for being absent to receive an excused absence. Earlier notification is encouraged. Absences due to sickness, death in the family, or other emergencies of a similar nature shall be regarded as approved absences and shall not affect the member's status on the Commission. Known work commitments, vacations, or other non-medical conditions are not approved absences. In the event of a long illness or other situation resulting in a prolonged absence, the status of the absences will be reviewed by the Administrator. If necessary, the member may be replaced by the City Council.

3.3. Absence of Officers

In the absence of both the Chairperson and Vice Chairperson, the Commission membership in attendance shall vote to determine an acting Chair for the meeting.

3.4. Attendance/Malfeasance Policy

All members shall attend Commission meetings on a regular basis. If any member misses more than three [3] consecutive meetings, or does not attend at least 75% of the meetings in a calendar year, they may be replaced at the discretion of the appointing authority [City Council]. Members of the Commission may, after public hearing, be removed by the appointing authority for inefficiency, neglect of duty, violation of these rules, or malfeasance in office. The appointing authority shall file a written statement of reasons for such removal. The Commission may, by unanimous vote of the other members, recommend that a member be removed for cause and a replacement be appointed by the City Council. Such recommendation shall be communicated in writing by the Administrator to the City Council and to the Commission member in question in writing.

3.5. Vacancy

3.5.1. A vacancy in the office of Chairperson shall be filled by the Vice Chairperson succeeding to the office for the remainder of the unexpired term.

3.5.2. A vacancy in the office of Vice Chairperson [including a vacancy due to 3.5.1. above] shall be filled by election of a Vice Chairperson from the Commission for the remainder of the unexpired term.

3.6. Member Continuing Service Beyond Term

A member completing a term of office who has not been reappointed and for whose seat a new appointment has not been made by the appointing authority, may continue to serve until such time as he or she is reappointed; a new appointment is made; or until he or she decides to leave the Commission.

3.7. Resignation

A Commission member who has chosen to resign before the expiration of their term, must notify the City Clerk in writing [letter or email]. This notice shall include the date upon which the resignation is effective, which if possible should be at least thirty [30] days from the date of the notice. If a member of the Commission no longer resides within the City Limits, the move constitutes a resignation effective upon the date of the move.

Section 4: Meetings

4.1. Open Meetings

It is the public policy of North Carolina that the hearings, deliberations, and actions of public bodies that administer the legislative, policy-making, quasi-judicial, administrative, and advisory functions of political subdivisions conducting the people's business, be conducted openly. Therefore, all official meetings of the Commission, with very few exceptions that are allowed by state law, shall be open to the public and any person is entitled to attend. The public's right to attend such meeting does not necessarily entitle the public to participate in the meeting. An official meeting means a meeting, assembly, or gathering together at any time or place, or the simultaneous communication by conference telephone or other electronic means, of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business that is within the jurisdiction, real or apparent, of the public body.

4.2. Regular Meetings

Regular meetings of the Commission shall be held on the first Wednesday of each month at 5:30pm in the Council Chambers, Third Floor, City Hall. Regular meetings will be adjourned within two [2] hours, but may be continued past that time with a unanimous vote of members present. Regular meetings may be established at some other time and date at the discretion of the Administrator due to holidays or other reasons. Notices of meetings shall be provided in accordance with the notice requirements of North Carolina law. More specifically, an annual meeting schedule is available on the City's website and is filed with the City Clerk. Any changes to said schedule will be posted on the City's website and will be posted at the location of the meeting.

4.3. Special Meetings

Special meetings may be called by the Chairperson, or by written request of a majority of the members of the Commission submitted to the Commission or Chairperson. 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. Only those items of business specified in the notice may be transacted at a special meeting. The notice shall be provided in accordance with the notice requirements of North Carolina law.

4.3.1. Work Sessions

The Administrator may also call a special meeting or work session. 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. Only those items of business specified in the notice may be transacted at a special meeting. The notice shall be provided in accordance with the notice requirements of North Carolina law.

4.4. Continued Meetings

Any regular meeting may be continued to another specific date, time, and place without additional public notice by a majority vote of the Commission, in accordance with the deferral and continuance provisions of the North Carolina General Statutes.

4.5. Cancellation of Meetings

Whenever there is no business to come before the Commission, the Administrator 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. In the case of severe weather, notice of cancelation shall be given at the earliest practical time. Meeting cancelations shall be posted on the City's website and at the location of the meeting.

4.6. Quorum

A quorum of the Commission shall consist of a majority of the set membership, excluding vacancies, but not excluding absents. A quorum must be present in order for the Commission to take any official action. A member who has withdrawn from a meeting without being excused by a majority vote of the remaining members present shall be counted as present for the purpose of determining whether or not a quorum is present.

4.7. Agendas

- a. The agenda for each regular or special meeting or public hearing shall be prepared by the Administrator of the Commission.

- b. The agenda for each meeting shall be emailed to all members no later than seven [7] days prior to the scheduled meeting or hearing, except in the case of special meetings called under Section 4.3., in which the agenda will be delivered or digitally transmitted, as appropriate, to the members no later ³ than forty-eight [48] hours prior to the scheduled meeting or hearing.
- c. No business, either old or new, may be considered by the Commission unless such item properly appears on the agenda. However, any matter may be considered by the Commission as a non-agenda item if such matter is approved for consideration by a majority vote of the members present.

4.8. Order of Business

The order of business at regular meetings shall be as follows:

- Call to order;
- Roll call;
- Approval of minutes;
- Hearing and consideration of each case;
- Unfinished business;
- New Business;
- Committee reports and announcements;
- Adjournment.

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

4.9. Hearings

4.9.1. Application Submittal

In accordance with the Unified development Ordinance [UDO], the Administrator shall establish specific submittal requirements and review schedules for the applications heard by the Commission.

4.9.2. Attendance by Applicant

The Administrator shall notify the applicant of the date, place, and time of the hearing in accordance with the public notifications requirements of the UDO. The applicant, or authorized representative with knowledge of the application, is expected to attend the hearing to support the application. This person should be capable of addressing issues and answering questions. If no one is present to represent the application, the Commission may, in its discretion, deny the application without prejudice.

4.9.3. Type of Public Hearing

The Commission follows a quasi-judicial hearing process, which requires all testimony to be sworn, and which requires the Commission to conclude certain findings before approving a Certificate of Appropriateness.

4.9.4. Hearing Procedure

The Commission shall conduct its hearings in accordance with the quasi-judicial public hearing procedures of the UDO and as generally outlined below:

- Chair announces the item from the agenda
- Affirm/swear-in witnesses
- Hear staff presentation and recommendation
- Hear applicant testimony
- Hear testimony regarding the item from the public in attendance
- Allow rebuttal and/or cross examination of proponents or opponents
- Closing of testimony from the public by the Chairperson
- Deliberation and decision

Members of the Commission may ask questions of staff, the applicant, or any other person who has testified, at any time prior to voting on the item.

4.9.5. Evidence

- a. Evidence upon which decisions are based should be material [directly related to the matter and likely to influence decision], substantial [of real value, worth, or importance], and competent [having legal capacity of qualification].
- b. Findings of fact should not be based on hearsay evidence.

- c. The Commission, in order to make a decision, should not rely on the opinion testimony of laymen to support a finding that requires information from those with expertise in the matter.

4.9.6. Public Testimony

The Chairperson may limit repetitive testimony on any item, and may restrict anyone from making inappropriate or malicious remarks, or remarks not pertinent to the matter under consideration.

4.9.7. Time Limits

The Commission may limit the length of a meeting or set a time for adjournment by a majority vote of the Commission members present. The Commission may limit the time each person at a public hearing is allowed to speak by a majority vote of the Commission members present.

Section 5: Conducting Business

5.1. General Expectations of Members

- Be familiar with the laws and ordinances relating to the work of the Commission, and with the Rules of Procedure;
- Be prepared for meetings by examining the information provided in the meeting packet and consulting staff with questions;
- Ask questions as appropriate during the hearing and actively participate in deliberations;
- Consider all information on each matter before the Commission and make an informed decision; and
- Act in a fair, ethical, and consistent manner.

5.2. General Conduct of Members

5.2.1. No Prejudice

Members shall consider the application/request without prejudice.

5.2.2. No Commitment Prior to Review

Members shall take no public position on an application or on any proposed condition prior to the meeting at which the application is heard.

5.2.3. No Deliberation or Foundation of Decision Prior to Meeting

Members shall refrain from deliberation with other members or formulation of a judgment decision prior to the meeting at which the application is heard.

5.2.4. No Ex-Parte Communication

No Commission member shall, in any manner, discuss any Certificate of Appropriateness application with the applicant, other Commission members, or any other parties prior to the Commission's deliberations on the matter during the hearing. Any communication regarding a pending application that does occur outside of the hearing must be fully disclosed by the member or members involved before the start of the hearing and will be considered a conflict of interest as outlined in Section 5.4.

5.2.5. Acknowledgement of Relationship or Association With An Applicant or Other Party

Members should, prior to or at the beginning of the public hearing, disclose any past or present close familial, business or associational relationship with an applicant or other party of the matter. This shall be considered a conflict of interest as outlined in Section 5.4.

5.3. Impartiality Required

No Commission member shall, in any manner, discuss any application with any parties prior to the Commission's deliberations on such application; however, members may seek and/or receive information pertaining to the application from the Administrator prior to the hearing.

5.4. Conflict of Interest

No Commission member shall take part in any hearing, consideration, determination or vote concerning a property in which the Commission member has had undisclosed ex-parte communication regarding the case. 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]:

- Is the applicant before the Commission;
- Owns property within 100 feet of the subject property; or
- Has a financial interest or in the subject property or improvements to be undertaken thereon.

In addition, a Commission member may request to be excused from taking part in any hearing, consideration, determination or vote concerning a property in which a business associate or employer of the Commission member: 5

- Is the applicant before the Commission;
- Owns property within 100 feet of the subject property; or
- Has a financial interest in the subject property or improvements to be undertaken thereon.

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.

5.5. Recusals

If a member realizes that he or she may have a conflict of interest concerning a matter on the agenda, a request for recusal must be made immediately before the start of the hearing, and must be voted on by the Commission for the record. A member with a recognized conflict of interest relative to any matter shall not participate in the hearing, deliberation, or voting on the matter. A recused member shall physically vacate his or her seat while the matter is being considered. If there is a challenge to a member's participation in a matter due to an alleged conflict of interest, the member shall be given the opportunity to request recusal, or to refute the allegation. The remaining members of the Commission shall by majority vote rule on the objection.

5.6. Motions

The Commission shall proceed by motion. All motions shall be made in the affirmative. Any member, including the Chairperson, may make or second a motion. A motion may be amended by any member, subject to the agreement of the person who made the motion. A motion may be withdrawn by the introducer at any time before a vote. A motion that does not receive a second fails automatically and is not voted upon.

5.6.1. Substantive Motion

Substantive motions are non-procedural motions that result in final disposition of the matter under consideration. For the Commission, these motions are:

- Approval as submitted [no changes to the application]
- Approval as amended [with specific conditions or additions stated as part of the motion]
- Denial

All substantive motions are debatable, and require a majority vote of members present to approve.

5.6.2. Substitute Motion

While a substantive motion is pending, a substitute motion regarding the same issue may be introduced. If seconded, the substitute motion shall be voted upon first. If the substitute motion is approved, the original motion is automatically deemed denied. If the substitute motion fails, then the original motion is voted upon, or another substitute motion can be made. Only one substitute motion can be under consideration at a time.

5.6.3. Procedural Motion

Procedural motions in the collective provide a structure for conducting the business of the Commission, and promote propriety of behavior. For the Commission, these motions are:

- Approval of minutes
- Postpone consideration [to a date and time certain, with reasons stated]
- Take a recess
- Call the question [to end discussion among Commission members]
- Refer to committee [where an appropriate committee exists]
- Re-open public testimony [after the Chairperson has closed it]
- Reconsider [re-open a case decided at the same meeting]
- Adjourn
- Excuse from participation [voluntary recusal]
- Remove from participation [involuntary exclusion]
- To consider an item not on the meeting agenda [if not subject to public hearing notice requirements]

- To change the order of agenda items [when the Chairperson does not have unanimous consent]
- All procedural motions are open to discussion with the exception of a motion to recess, adjourn, or call the question, which are voted on immediately. All motions require a majority vote of the members present.

5.7. Deliberation

When a motion is introduced and seconded, the Chairperson should state the motion for the purpose of clarity and understanding, and then open the floor for discussion by the Commission members. The member who introduced the motion is entitled to speak first. A member who has not spoken on the issue shall be recognized before someone who has already spoken. Any member may move to call the question when it appears that deliberations have concluded, or there is an impasse. A majority vote will then end deliberations. A vote is then taken on the original motion. ⁶

5.8. Decisions

Provided a quorum is present, all decisions of the Commission shall be made by a majority of the members present.

5.8.1. Qualification 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.

5.8.2. Voting

- a. No member attending the presentation on a matter shall be excused from voting except for cause by majority vote of the Commission.
- b. A failure to vote by a member who is physically present at the meeting, or who has withdrawn without having been excused or recused by the Commission, shall be recorded as an affirmative vote.
- c. A tie vote constitutes disapproval of the motion.
- d. The method of voting shall be decided upon by the Chairperson, and may be by show of hands, 'yes' or 'no', or roll call. Any member may motion for a roll call vote on a particular matter, which shall require a majority vote to conduct.

5.8.3. Form of Decisions

Certificate of Appropriateness decisions shall be certified and filed by the Administrator, and communicated to the applicant in writing within ten [10] business days of the decision. Decisions regarding COA applications must be based on whether or not the proposed activity is incongruous with the special character of the historic district. Notifications shall include any special instructions or conditions relative to the action taken.

5.8.4. Public Availability of Decisions

Staff shall make all decisions available to the public in the offices of Planning and Community Revitalization during normal business hours.

5.8.5. Expiration of Decisions

5.8.5.1. COA-Major

Discontinuance of work or lack of progress toward achieving compliance with the approved certificate for a period of twelve [12] months shall render the certificate null and void. Amendments to a COA shall have the same expiration date as the original.

5.8.5.2. COA-Minor

Failure to complete the work granted in the approval of the certificate within a period of twelve [12] months following the approval of the certificate shall render the certificate null and void.

5.8.5.3. Extensions

An extension of a COA may be granted administratively and must be requested prior to the expiration of the original approval. Significant changes in the proposal shall require a new application.

Section 6: Record Keeping

6.1. Approval Stamp

Upon approval of the application by the Commission, the Administrator shall denote with an inked rubber stamp the approval on the copy of the drawings submitted with the application. The Planning department shall keep one [1] hard copy in its case record file and return one [1] digital copy to the applicant.

6.2. Conditional Approvals

If changes are made to the drawings in an application as a result of conditions on the COA stipulated by the Commission, the applicant shall submit revised drawings incorporating the changes to the Planning Department. If the drawings conform to the conditions imposed by the Commission, the Administrator shall denote approval with an inked rubber stamp and distribute copies as described in Section 6.1. The applicant may not proceed under the COA until the modified drawings are approved pursuant to this section.

6.3. Minutes

The minutes of all meetings and other records of the Commission shall be maintained by the Administrator or other authorized administrative staff. Minutes of meetings shall be prepared by the Administrator and should be transmitted to the Commission prior to the next regular meeting. Minutes are not official until approved by the Commission, at which time it becomes official public record of the Commission's actions. Minutes shall include the following:

- Date, time, and place of the meeting
- Names of members in attendance and names of absent members
- Names of staff members in attendance
- Names and addresses of applicant[s] and others that spoke on each matter
- A summary of the discussion on each matter
- The wording of each motion, including who made the motion and who seconded
- All votes of the Commission

All application records and supporting materials are kept electronically in accordance with North Carolina records retention rules.

Section 7: Appeals

7.1. COA-Major

An appeal from the decision of the HPC regarding a COA-Major application may be made to the Board of Adjustment. Appeals may be taken by any aggrieved party and shall be in the nature of certiorari. Any such appeal must be made no later than thirty [30] days after the applicant receives the Commission's written decision.

7.2. COA-Minor

Appeals of the decisions of the Administrator shall be heard by the HPC.

7.3 Rehearing of Denied Applications

The Commission has no legal authority or jurisdiction to hear the same matter a second time. Therefore, if an applicant desires to submit a second application regarding a previously denied request, he or she must first appear before the Commission to present evidence that there has been a substantial change in the application, relevant ordinance provisions, evidence or material site conditions in the matter that presents new issues, hence allowing a second application to be heard as an entirely new proceeding. If the Commission determines no substantial change exists, it shall deny a rehearing on the matter. If the Commission determines that there has been such a change, it shall thereupon treat a subsequent application in the same manner as any other application.

Section 8: Suspension and Amendments

8.1. Suspension of Rules

The Commission may, upon an affirmative vote of a majority of the members present, provided a quorum exists, suspend these rules of procedure for consideration of any matter before the Commission.

8.2. Amendments

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of a majority of the members present, provided a quorum of members exists, and provided that the amendment to be voted on 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.