

Policy Manual Charlotte-Mecklenburg Historic Landmarks Commission

TABLE OF CONTENTS

1. Statement of Purpose
2. Duties of the Commission
3. By-Laws of the Commission
4. State Enabling Legislation Overview
5. Budget Process
6. Revolving Fund
7. Interlocal Agreements
8. Certified Local Government Program
9. Duties of the Director and Support Staff
10. Survey Process
11. Local Historic Landmark Designation Process
12. Design Review Process
13. Guidelines for Projects and Real Estate Acquisitions

Appendix A – N.C. Division of Archives and History’s Explanation of Local Historic District and Historic Landmark Designation

Appendix B – State Enabling Legislation, details of N. C. G. S. 160A-400

1. STATEMENT OF PURPOSE

The Charlotte-Mecklenburg Historic Landmarks Commission was created in 1973 to perform the functions which are enumerated in G.S. 160A-400. They are:

1. To safeguard the heritage of the City and County by preserving any landmark therein that embodies important elements of the cultural, social, economic, political, or architectural history of the City and County; and
2. To promote the use and conservation of such property for the education, pleasure, and enrichment of the residents of the City and County and the State as a whole.

The Commission is composed of twelve members (2 are appointed by the Charlotte Mayor, 4 by the Charlotte City Council, 6 by Board of Commissioners of Mecklenburg County. Appointments are made for three-year terms with no one serving more than two consecutive full terms.

City application: <https://adobeformscentral.com/?f=%2au1wln0tzFD3ohq660AgVA>

County application:

<http://charmeck.org/mecklenburg/county/BOCC/AdvisoryBoards/Pages/BoardApplication.aspx>.

2. DUTIES OF THE COMMISSION

Toward these ends, the Historic Landmarks Commission undertakes six major activities. They are:

1. To recommend the designation of structures, sites, areas, and objects as "historic landmarks."
2. To process applications for Certificates of Appropriateness to intended demolition, material alteration, or remodeling of "historic landmarks."
3. To seek grants for surveys, reports, and adaptive reuse studies for historically significant property.
4. To identify historically important properties for purposes of Environmental Impact Statements as required by provisions of the National Environmental Policy Act of 1969.
5. To educate residents of Mecklenburg County about the historic elements in the local built environment through the Commission website and documentaries or other appropriate means.
6. To secure the fee simple or any lesser included interest in a historic landmark or contributing property or contributing property in a local historic district and dispose of same by sale, lease, or otherwise consistent with the purposes of historic preservation.

3. BY-LAWS OF THE COMMISSION

Charlotte-Mecklenburg Historic Landmarks Commission

Charlotte, N. C.

BY-LAWS

Adopted 1973

Revised 1982, 1992, 2002

I. GENERAL RULES

The Charlotte-Mecklenburg Historic Landmarks Commission shall be governed by the terms of Part 3B of Chapter 6-160A of the General Statutes of North Carolina and by Joint Resolution of the County of Mecklenburg (June 4, 1973) and the City of Charlotte (June 18, 1973). All members of the Commission should thoroughly familiarize themselves with these statutes and these resolutions. In addition, the meetings of the Commission shall be governed by Robert's Rules of Order as revised and amended.

II. OFFICERS AND DUTIES

The following officers shall be elected by majority vote of the Commission from among its members. Their terms of office shall be for one year or until their successors are elected, and these officers shall be eligible for reelections:

A. Chair. The Chair shall preside over meetings of the Commission and shall decide all points of order and procedure, unless directed otherwise by a majority of the Commission in session at the time. He or she shall see that an agenda is prepared and that accurate minutes are kept and circulated. He or she shall appoint all Committee Chairs and serve as an ex officio member of each of them. He or she shall act as liaison between the Commission and the Director. He or she shall see that effective presentations are made to the County Commission and City Council and other appropriate bodies of local government and that the policies of the Commission are carried out. He or she shall in general have all powers and perform all duties incident to the office of Chair and such other powers and duties as may be prescribed from time to time by the Commission.

B. Vice Chair. The Vice Chair shall serve as acting Chair in the absence of the Chair and at such times shall have the powers and duties as the Chair. In addition, he or she shall perform such other duties and have such other powers as may be prescribed by the Chair or the Commission.

C. Secretary. The Secretary may gather information from other groups dedicated to historic preservation and may report such information to the Commission.

D. Treasurer. The Treasurer reports monthly on the status of the HLC's Revolving Fund. The Consulting Director prepares the annual budget of the Commission in consultation with the County Budget Department. The Consulting Director welcomes recommendations from the Commission concerning budget items to be requested from the County or from whatever other agency might contribute financially to the work of the Commission.

III.COMMITTEES

There shall be such committees as the Commission requires. Committee Chairs and members are appointed by the Commission Chair.

A. Survey Committee. The Survey Committee shall be responsible for identifying buildings, structures, sites, areas, and objects in Charlotte-Mecklenburg for possible designation as historic landmarks and shall see that they are brought to the attention of the Commission in an orderly fashion. A Study List of all prospective historic landmarks shall be developed and maintained by Staff. Meetings are held as needed.

B. Design Review. The Design Review Committee meets on a regular basis to consider Applications for Certificates of Appropriateness for locally designated historic landmarks. Recommendations are presented to the Historic Landmarks Commission for final vote.

C. [Projects Committee](#). The Projects Committee evaluates historic properties that have potential for Commission purchase and sale under the Commission's Revolving Fund. The Commission must approve all recommendations. Meetings are held as needed.

D. [Executive Committee](#). The Executive Committee of the Commission is composed of the Chair, Vice Chair, Secretary, Treasurer, and Projects Committee Chair. The Executive Committee acts as the Personnel Committee and has the power to make decisions as directed by the Commission. All personnel decisions are made by the Historic Landmarks Commission meeting in executive session.

The Commission established the policy and procedure set forth below for the approval of expenditures by staff and the Executive Committee of the

- **Executive Committee Approval for Expenditure of Funds.** It is the policy of the Charlotte-Mecklenburg Historic Landmarks Commission (CMHLC) that expenditures be approved by a vote of the Board of the CMHLC at its monthly meeting. However, due to the nature of real estate ownership and the preservation of historic properties, unexpected circumstances arise that justify the immediate expenditures of funds prior to the next meeting of the CMHLC.
- **Policy and Procedure for Approval of Expenditures by Staff and the Executive Committee of the Charlotte-Mecklenburg Historic Landmarks Commission.** Due to these concerns, the Board adopts the following procedure to allow the Executive Committee of the Charlotte-Mecklenburg Historic Landmarks Commission ("CMHLC"), consisting of the Chair, Vice-Chair, Secretary, Treasurer and Chair of the Projects Committee, to authorize expenditures from CMHLC's funds. In addition, the Board of CMHLC also believes that it is prudent to allow staff to expend certain funds associated with real estate owned by CMHLC without its specific approval. Therefore, it has adopted the following policy: The Executive Committee of the Charlotte-Mecklenburg Historic Landmarks Commission shall have the authority to authorize expenditures from the funds of CMHLC, without the approval of the Board of CMHLC, under the following conditions:
 - a. **Emergency Repairs.** The Executive Committee shall have the authority to expend funds for repairs to correct any conditions on real property owned by CMHLC that would likely, if not immediately corrected, result in (a) personal injury, (b) damage to property owned by any third party; or (c) substantial damage to property owned by CMHLC, which damage significantly exceeds the cost of the repair.
 - b. **Rental Properties Repairs.** The Executive Committee shall have the authority to expend funds for repairs required to fulfill its obligations under state law to provide fit and habitable dwellings to residential tenants or to fulfill its obligations under leases, provided such repairs are of the type that a tenant would reasonably expect to be immediately completed, such as repairs required to provide basic services, including electricity, water/sewer service, heating and air conditioning. This provision shall not be used to pay for routine maintenance or

other repairs that could reasonably be handled by the CMHLC Board at a regularly scheduled meeting.

- c. **Incidental Expenses.** In addition to the expenditures authorized herein, the Executive Committee shall also have the right to approve incidental expenses associated with real estate owned by CMHLC up to the sum of \$10,000.00 per incident or occurrence.
- d. **Survey and Research Reports.** The Director is authorized to approve that a Survey and Research Report be issued for up to \$2,500.00. The Chair of the Survey Committee can authorize the Consulting Director to prepare a Survey and Research Report. The Consulting Director, with the approval of the Chair of the Survey Committee, may prepare Survey and Research Reports for a fee not to exceed \$2500.
- e. **Expenditures by Staff.** The Consulting Director shall have the authority to approve expenditures associated with the real estate owned by CMHLC up to the sum of \$1,500.00 per incident or occurrence.

E. Nominating Committee. The Nominating Committee recommends a slate of officers for the Commission in April or May and supervises the election of officers in June of each year. Elections, unless otherwise determined by the Commission, are held by secret ballot.

F. Other Committees/Chairs. The Commission Chair is authorized to establish additional committees and/or chair as needed.

IV. MEETINGS

A. Regular Meetings. Regular meetings of the Commission shall be held on the second Monday of each month at 6:00 p.m. at the Commission office, or at such other place as shall be specified by the Commission Chair in advance of the meeting. The Commission does not hold meetings in July of each year.

B. Special Meetings. Special meetings of the Commission may be called at any time by the chair. At least 24 hours notice of the time and place of special meeting shall be given by the Secretary or Chair to each member of the Commission.

C. Quorum. A majority of the voting members of the Commission shall constitute a quorum. Attendance requirements are in accordance with City and County rulings, as follows: Attendance runs January 1 - December 31. There are no excused absences for sickness, business, or personal matters of any kind. City and County Attendance Policies: City Council has an attendance policy that requires you to attend **65 percent** of all regular, special and assigned subcommittee meetings from the time your term begins until the end of this calendar year and each subsequent calendar year thereafter; and you may not miss three consecutive regular meetings of this board. If you fail to meet either of these two requirements you will automatically be removed from the board per City Council's policy.

D. Conduct of Meeting. Meetings are open to the public. The order of business at regular meetings is published in advance of each meeting.

E. Annual Meeting. The annual meeting, where Commission officers are elected for the new fiscal year beginning July 1 and ending June 30, is held in June of each year.

F. Elections. Robert's Rules of Order are followed regarding voting procedure.

V. AMENDMENTS

Commission rules/By-Laws may be amended at any time by a majority of the members of the Commission.

(Meeting Information – All meetings shall be open to the public. The order of business at regular meetings, unless amended by the Commission, shall be as follows:

a) approval of minutes, b) HLC Chair report, c) review of attendance sheet, d) Director's Report; e) Committee Reports; f) old business; g) new business).

4. STATE ENABLING LEGISLATION OVERVIEW

The most powerful governmental regulatory powers for historic preservation exist at the level of local government. They are historic landmarks (properties which because of their individual characteristics possess architectural, cultural, or historical significance) and historic districts (properties which as a group possess architectural, cultural, or historic significance). The specific regulations associated with local historic landmarks and local historic districts are enumerated in N.C.G.S 160A-400. It is imperative to realize that this is [local enabling legislation](#), which means that only those local governing boards which choose to exercise these powers may do so. The specific action of the local governing board (City Council, Town Board, and Board of County Commissioners) is to create a local historic commission, either a Historic District Commission, A Historic Landmarks Commission, or a Historic Preservation Commission (this agency has jurisdiction over both historic landmarks and historic districts). See Appendix B for the legislation itself.

1. Historic Landmarks Commission

A. The essential purposes of a Historic Landmarks Commission are:

1. Recommend the designation of properties as historic landmarks under the police power of a local governing board.
2. To conduct comprehensive inventories of local built environment to determine what properties might prospectively be designated as historic landmarks.
3. To conduct design review over the material alteration or demolition of historic landmarks.
4. To encourage the preservation of historic landmarks, including acquiring the fee simple or any lesser included interest in historic

landmarks and disposing by sale, lease or any other legal means consistent with the preservation of the landmark.

B. The fundamental consequences for having property designated as a historic landmark are:

1. The Historic Landmarks Commission can delay the demolition of a historic landmark for up to 365 days. During this period the Commission may attempt to dissuade the owner from demolishing the historic landmark.
2. The Historic Landmarks Commission may recommend that the local governing board acquire through eminent domain historic landmarks for which a demolition permit is pending if such historic landmarks have been determined by the State Historic Preservation Officer to have state-wide significance.
3. The Historic Landmarks Commission must issue a Certificate of Appropriateness for any material alteration to a historic landmark.
4. The Historic Landmarks Commission may acquire the fee simple or any lesser included interest in a historic landmark and dispose of same.
5. The owner of a historic landmark may apply for an automatic deferral of one-half of the property taxes (Ad Valorem taxes) on that portion of the property which has been so designated. Such deferral is continuous as long as the property retains its designation as a historic landmark, The deferral is not collectable upon resale. If the property should lose its historic landmark status, the owner must pay three years' back taxes plus a penalty.

5. BUDGET PROCESS

The final determination of the HLC Budget is made annually by the Mecklenburg County Budget Department. The Consulting Director of the HLC meets initially with a budget analyst, usually in February, to determine whether the upcoming fiscal year (July 1st to June 30th) will be a Current Level Budget or will allow for Increased Services. If the Budget is to be a Current Level Budget, the Budget Department will determine the necessary increases to maintain Current Level. If the County will accept requests for Increased Services, the Consulting Director will develop a list of requests for Increased Services, will solicit input from Commissioners, and will make adjustments he or she and the Budget Analyst deem appropriate for presentation to the Budget Department.

Compensation for HLC County Employees is determined by Mecklenburg County. The Consulting Director of the HLC prepares an annual evaluation of the performance of HLC County Employees and submits same to Mecklenburg County. The Consulting Director and the Recording Consultant are consultants to the Historic Landmarks Commission. They receive an increase of compensation equal to the average annual increase for County employees.

6. REVOLVING FUND

The primary purpose of the fund is to aid in the preservation and rehabilitation of properties that are historic and/or culturally significant to the community.

Program Description – The fund was established by issuance of public bonds and the commitment of other monies to preserve and rehabilitate properties that are deemed "historic."

Eligibility Requirements – Two significant factors for consideration of eligibility for the acquisition of the fee simple or any lesser included interest are: level of endangerment and economic viability, or simply if the Landmarks Commission believes the preservation of the subject property would be worthwhile to the public.

Items for Consideration – Potential projects include individual buildings, structures, sites, areas, or objects which have been studied by the Commission and judged to have historical, architectural, archeological, or cultural value.

Ownership – The Historic Landmarks Commission becomes the owner of any property acquired by the Historic Landmarks Commission. Protective covenants are written into the deeds to assure the longevity of preservation.

Alliances – The Landmarks Commission may, at its discretion, pursue preservation projects with government agencies, non-profit organizations, and for-profit organizations.

7. INTERLOCAL AGREEMENTS

The Charlotte-Mecklenburg Historic Landmarks Commission has Interlocal Agreements with the following municipalities: Cornelius, Davidson, Matthews, Mecklenburg County, Huntersville, and Pineville. These Interlocal Agreements, adopted by each municipality, establish the Charlotte-Mecklenburg Historic Landmarks Commission as the historic commission for each municipality. For more information on the Interlocal Agreements, contact the Attorney of the Historic Landmarks Commission.

8. CERTIFIED LOCAL GOVERNMENT (CLG) PROGRAM

In 1980, Congress amended the National Historic Preservation Act of 1966 (<http://www.hpo.ncdcr.gov/nhpa.htm>) to require each state to establish a procedure by which local governments may be certified to participate in the national framework of historic preservation programs. This requirement has become the "Certified Local Government (CLG) Program" in which many North Carolina counties and cities participate, including Mecklenburg County and the City of Charlotte.

Since Congress created a preservation program for the United States in 1966, the National Historic Preservation Program has operated as a decentralized partnership between the federal government and the states. The federal government established a program of identification, evaluation, and protection of historic properties and gave individual state governments the primary responsibility for carrying out this program. The success of that working relationship prompted Congress to expand the partnership to provide for participation by local governments. To read about the benefits of CLG status, see the Guidelines for North Carolina's Certified Local Government Program (<http://www.hpo.ncdcr.gov/2003%20CLG%20Guidelines.pdf>)

9. DUTIES OF THE DIRECTOR AND SUPPORT STAFF

Note: The Historic Landmarks Commission has Consultants and Employees. Employees are paid by Mecklenburg County and receive social security, sick leave, vacation, health insurance, retirement benefits, disability benefits, etc, which add approximately 40% to the salary. Consultants receive a stipend from the HLC Annual Budget with no fringe benefits.

The Director (Consultant) – The Director shall be the principal administrative officer of the Commission. The Director shall conduct all business that has not been specifically assigned to others and see that the policies and directives of the Commission are carried out. The Director shall provide continuing planning and organizational support for the Commission. The Director shall attend the meetings of the Commission and other civic and governmental organizations so that there will be a coordinated program of historic preservation for Charlotte-Mecklenburg. The Director shall assist the Preservation Planner in the preparation of ordinances and engage in additional staff support as it may be required and authorized. The Director shall aid the Preservation Planner in the design review of all plans for properties over which the Commission has jurisdiction and assist in the preparation and review of surveys and reports. In addition, the Director shall perform all duties incident to the office of Director and such other duties as may be prescribed from time to time by the Commission. It is understood that the duties enumerated above do not include all responsibilities that might involve the Director.

Preservation Planner (Employee) – The primary responsibility of the Preservation Planner is administering design review and the processing of properties for historic landmark designation. The Preservation Planner shall advise upon and oversee design review matters for all submitted Certificates of Appropriateness Applications for locally designated historic landmarks. The Preservation Planner shall prepare the Agenda for each meeting of the Design Review Committee. The Preservation Planner will also assist the Director of the Commission with the development of Survey and Research Reports and assumes responsibility for the elements involved in the designation process of historic landmarks. It is understood that the duties enumerated above do not include all responsibilities that might involve the Preservation Planner.

Recording Consultant (Consultant) – The Recording Consultant takes minutes at all Commission and Committee meetings. The Recording Consultant is also responsible for contacting and notifying Commission and Committee members of upcoming meetings. The Recording Consultant sends a meeting notification letter by mail and also phones all Commission and Committee members to remind them of any upcoming meetings. It is understood that the duties enumerated above do not include all responsibilities that might involve the Recording Consultant.

Commission Attorney – The Commission Attorney provides legal guidance to CMHLC in its investigation of, purchase and sale of, and ownership of real estate. In addition to providing general real estate advice, he or she prepares contracts, restrictive covenants, leases, and all real estate documentation needed by the Commission. The Commission Attorney handles the closing transactions, including obtaining title policies and surveys on real estate prospectively to be purchased and works with HLC Staff (primarily the Project Manager) regarding other due diligence matters involving real estate. The Commission Attorney or members of his or her firm may handle additional matters for CMHLC, but refers most other matters and any administrative matters to the Mecklenburg County Attorney. The Commission Attorney is paid an hourly fee from the HLC's Revolving Fund or from the Professional Fee item in the HLC operation budget, whichever is appropriate. It is understood that the duties enumerated above do not include all responsibilities that might involve the Commission Attorney.

Mecklenburg County Attorney – This position provides general legal advice to CMHLC including advice regarding administrative law matters, use of bond money, relationship with Mecklenburg County, statutory authority of CMHLC, and most matters that are not real estate related. It is understood that the duties enumerated above do not include all responsibilities that might involve the Mecklenburg County Attorney.

Project Manager (Employee) – This position, assigned to the Asset Management Department of Mecklenburg County, is responsible for advising and assisting the Charlotte Mecklenburg Historic Landmarks Commission (HLC) with property acquisition, design & construction management, and resale of historic landmarks throughout Mecklenburg County. In coordination with the HLC Attorney, the position assists with the property evaluation, acquisition and disposition process, as well as the design and construction phases for Historic Landmarks restoration projects. The position is responsible for maintaining the financial records of the HLC Revolving Fund and providing a financial report of same at the monthly meetings of the HLC. The position assists with evaluating the feasibility of property purchases, with determining project requirements, prepares budget estimates, selects consultants & negotiates fees for architectural /engineering design, reviews & approves design and construction document phase submittals from consultants, manages the bidding phase, hires and negotiates with construction contractors, manages/monitors the construction phase of projects. The position also assists with property management of the inventory of HLC real estate. This position works with the HLC staff in making acquisition, design, and construction recommendations to the HLC to ensure a good value for the funds expended, and to ensure that procurement of design and construction services is

handled in a legal manner in accordance with the North Carolina General Statutes, Mecklenburg County Board of Commissioners, and Historic Landmarks Commission policies. It is understood that the duties enumerated above do not include all responsibilities that might involve the Project Manager.

Administrative Assistant (Employee) – This position provides professional administrative assistance and support to the staff and Board of the Charlotte-Mecklenburg Historic Landmarks Commission. Work includes assisting and supporting the Director, Preservation Planner, and Recording Consultant with design review, historic landmark designation processes and with preparing materials for meetings of the HLC and its constituent committees. The Administrative Assistant shall maintain the HLC's Study List of potentially eligible properties for local historic landmark designation, assist in the processing and issuance of applications for Certificates of Appropriateness, mailing notifications necessary in the design review and historic designation processes, and assist in providing information to the public, HLC Staff, and Commission. It is understood that the duties enumerated above do not include all responsibilities that might involve the Administrative Assistant.

10. SURVEY PROCESS

The Survey Committee is responsible for reviewing surveys brought before it by historic consultants, reviewing potential historic landmark applications (<http://cmhpf.org/Surveys/potentiallandmark.htm>) and for identifying and developing an ongoing list of buildings, structures, sites, areas and objects in Charlotte-Mecklenburg for possible designation as historic landmarks. The Survey Committee will make presentations to the Commission regarding prospective historic landmarks. These presentations will address the historical, architectural and associative significance of each prospective historic landmark and also discuss the respects in which each meets the criteria for local historic landmark designation.

11. LOCAL HISTORIC LANDMARK DESIGNATION PROCESS

1. A property being considered for designation as a historic landmark is referred to the Survey Committee of the Historic Landmarks Commission. A letter of notification is sent to the owner(s) of the property that is being considered for historic landmark designation. This letter provides the time and place of the meeting of the Survey Committee at which the property will be considered for placement on the Study List. A “Legal Consequences of Designation” (<http://landmarkscommission.org/FactsConcerningLandmarkStatus.htm>) sheet is also included. It is desirable to have obtained owner approval for designation in order for the property to be considered. The Survey Committee decides whether or not the property meets the criteria to be placed on the HLC’s Study List and makes a recommendation to the Commission at its regular monthly meeting for consideration. The placement of a property on the Study List does not mean that a Survey and Research Report will necessarily be prepared. The responsibility for the preparation of a Survey and Research Report rests with the owner or in some instances with the Historic Landmarks Commission. When an owner is responsible for the preparation of the Survey and Research Report, he, she, or it must submit the report to the HLC Staff for review and approval as to form. The HLC prepares and pays for Survey and Research Reports when: 1) the owner demonstrates financial hardship, 2) when the HLC determines that the property is endangered or has a high level of significance and would most likely otherwise not be processed for historic landmark designation, and 3) when HLC programmatic functions, e.g. property acquisition, require historic landmark designation. In the last instances payment is usually made from the HLC Revolving Fund.

2. A Survey and Research Report may be prepared for prospective historic landmarks once they have been placed on the Study List. Completed Survey and Research Reports must be presented to the Historic Landmarks Commission for approval, disapproval, or amendment. A letter of notification is sent to the owner(s) of the property that is being considered for historic landmark designation. This letter provides the time and place of the meeting of the Historic Landmarks Commission at which the property will be considered for historic landmark designation. A “Legal Consequences of Designation” sheet is also included. If the interior of a privately-owned property is to be considered for designation, the owners are required by N.C.G.S. 160A-400 to sign the “Permission of Owner for Interior Design Review.” If the owner did not produce the Survey and Research Report, a copy of the report will be made available. The Survey and Research Report will be available to the Commissioners on the Commission’s website.

3. The Survey and Research Report, with visuals included, is considered by the Commission at its monthly meeting. The Survey and Research Report describes the portions of the property that meet the statutory requirements of special significance (e.g. interior, exterior, outbuildings, and associated land). The Commission may vote to recommend to the local governing board having zoning jurisdiction over the subject property, that the subject property be designated as a historic landmark.

4. If the potential landmark is located within the City of Charlotte or the City's ETJ, the following departments must be given the opportunity to comment:

- Charlotte Historic Districts Commission
- Mecklenburg County Park and Recreation
- Charlotte-Mecklenburg Utility Department
- Mecklenburg Building Standards Department
- Neighborhood Development Key Business
- Charlotte Department of Transportation

5. State Statues mandate that the Division of Archives and History be given the opportunity to comment on all prospective historic landmark designations. A copy of the Survey and Research Report is sent to the Division of Archives and History. Comments, which are advisory in nature, must be made within 30 days of receipt.

6. If the N.C. Division of Archives and History comments unfavorably on the prospective designation of a historic landmark, staff will consider its comments and attempt to resolve the issues contained in the unfavorable comment. In all instances when an unfavorable comment is received, staff will advise the Historic Landmarks Commission of this fact and provide an opportunity for the Commission to amend or withdraw its recommendation regarding the prospective historic landmark.

7. If the N. C. Division of Archives and History comments favorably on the prospective designation of a historic landmark, or, if the Historic Landmarks Commission votes to proceed with the designation process despite a negative comment from the Division of Archives and History, the following procedural steps are followed:

- A. A request is sent to the Mecklenburg County Tax Office, asking for the amount of taxes deferrable on the property. The request should include the portions of the property included in the designation recommendation.
- B. The following materials are sent to the appropriate City or Town Clerk:
 - **City Clerk** –A draft of a Resolution calling for public hearings to consider the designation of the property. Cover Page (facts sheet on property), Survey and Research Report, HLC Vote Summary, Tax Deferral Letter, Department Review Summary, Archives and History Comment Letter, Resolution draft and Ordinance draft.
 - **Town Clerk** – (Cornelius, Davidson, Huntersville, Matthews, Pineville) Ordinance draft.
 - **County Commission** –If a property located in the City of Charlotte or its ETJ is being processed for local historic landmark designation, all members of the Mecklenburg Board of County Commission are notified of the proposed designation.

8. Before a governing board can adopt an ordinance designating a property as an historic landmark, Public Hearings must be held by the governing board and the Historic

Landmarks Commission to discuss the proposed designation and give the public an opportunity to comment. Public hearings must be advertised. HLC staff is responsible for drafting the advertisement. The appropriate City or Town Clerk's office is responsible for running the advertisement.

9. Notify property owners by mail of the dates of the forthcoming public hearings at least two weeks in advance.

10. Staff attends all public hearings.

11. The appropriate local governing board may vote on the adoption of an ordinance designating a property as a local historic landmark after the completion of the public hearings. The vote can be called for during the same meeting where the public hearing was held, or the vote can be scheduled for a later meeting.

12. If the appropriate governing board votes to adopt an ordinance designating a property as a local historic landmark, a certified copy of the ordinance (complete with Town or City seal) must be produced. HLC staff is responsible for registering the ordinance with the Mecklenburg County Register of Deeds.

13. Typically it takes 4-7 weeks to receive the registered ordinance back from the Register of Deeds Office. The registered ordinance will be filed in the offices of the HLC. The following parties will be supplied with a copy of the registered ordinance:

- ***Property Owner***
- ***Archives and History***
- ***Mecklenburg County Tax Office***
- ***Building Standards Department (same for City and Towns)***
- ***City or Town Clerk Mecklenburg County Land Records/GIS***
- ***Mecklenburg County Planning Commission***

14. The property owner will also receive a letter containing contact information for the Tax Office, and a reminder about the procedures of design review process. If owner is interested, they can receive a plaque identifying their property as a historic landmark. Plaque recipients will sign a receipt acknowledging receipt of the plaque.

15. See Appendix A for NC Division of Archives and History.

12. DESIGN REVIEW PROCESS

The Historic Landmarks Commission has adopted the [Secretary of the Interior's Guidelines for Rehabilitation](#) as its design review standards to determine the appropriateness or inappropriateness of intended changes to historic landmarks. Here is a video on the [process of Design Review](#).

The Design Review Committee, except as stipulated below, formulates recommendations regarding the issuance of [Certificates of Appropriateness \(COA\)](#) for intended physical changes to historic landmarks. It is, therefore, the Commission's instrument of design review. Certificates of Appropriates can be one of two types.

- 1) Certificates of Appropriateness must be reviewed by the Design Review Committee before a recommendation can be presented to the Historic Landmarks Commission for action. After receiving an application for a Certificate of Appropriateness, staff is required to notify all property owners located within 100 feet of the property. This notification provides the time and place of the meeting of the Design Review Committee at which the prospective project will be considered.
- 2) A Minor Works Certificate of Appropriateness is issued for incidental changes. A Minor Works COA can be issued if the Chair of the Design Review Committee and the Consulting Director of the Commission agree that the proposed project is appropriate. Neighboring property owners of Minor Works COAs are not notified.

The links for the Certificate of Appropriateness Application is <http://landmarkscommission.org/designreviewcoa.htm>

The links for the Minor Works Certificate of Appropriateness Application is <http://landmarkscommission.org/designreviewcoam.htm>

13. GUIDELINES FOR PROJECTS AND REAL ESTATE ACQUISITIONS

The Historic Landmarks Commission is allowed by State Enabling Legislation to purchase a property in its own name. This is significant, because it absolves the Commission from the property acquisition and disposal procedures mandated for local governments, e.g. mandatory sale to the highest bidder. The Commission is not required to pay appraised price, and it may sell or lease property at any price to any entity that will advance the purposes of preserving the subject property.

1. The Commission appreciates that each property possesses a unique character that suggests a variety of potential preservation strategies (all of which, to qualify for Commission consideration, must meet the [Secretary of the Interior's Guidelines for Rehabilitation](#), which have been adopted by the Commission as its design review standards). In selecting a preservation strategy for a given property, the Commission shall seek to balance the objectives of historic preservation and recovery of investment, in an effort to preserve and enhance the revolving fund as one of its most important preservation tools.
2. As a general rule, the Commission shall restore buildings only to the level necessary to safeguard their physical integrity and to market them effectively for sale or other appropriate disposition.
3. The Commission recognizes that in-fill (the building of new structures) and adaptive reuse are legitimate preservation strategies and in appropriate circumstances shall encourage their use either through its own actions or through the actions of developers.
4. The Commission further recognizes that circumstances can exist in which the recovery of funds invested in a given project may not be assured. In such circumstances, the Commission shall endeavor to balance the objectives of historic preservation and fund preservation by applying the general rule that the greater the risk to recovery of invested funds from a given project the higher the standard that shall be applied in assessing the merits of the project under consideration.

APPENDIX A

N.C. ARCHIVES & HISTORY'S EXPLANATION OF LOCAL HISTORIC DISTRICT AND HISTORIC LANDMARK DESIGNATION

The North Carolina Division of Archives and History provides the following information as guidance for local historic preservation commissions.

Landmark designations may apply to individual buildings, structures, sites, areas, or objects which are studied by the Commission and judged to have historical, architectural, archaeological, or cultural value. Historic district designation may be either a type of overlay or special use zoning that applies to entire neighborhoods or other areas that include many historic properties. The zoning provides controls on the appearance of existing and proposed buildings.

The Designation Process: The designation process usually begins when a commission identifies a property or an area as a potential landmark or district. The commission studies the site and writes a local designation report which documents the site's significance. The commission normally contacts property owners during this stage to seek their cooperation and to explain the ramifications of local designation. Although seldom done, a landmark may be designated over the objection of its owner; however, owner consent is required for the designation of a privately-owned landmark's interior. Likewise, a district may be designated over the objection of property owners; state law does not provide for the designation of the interiors of properties within districts.

The Department of Cultural Resources, acting through the State Historic Preservation Officer, is given an opportunity to review and comment on the proposed designation. When the commission recommends designation, the commission and the local governing board hold a public hearing to consider the merits of the designation. The final step in the designation process is the passage of an ordinance designating the landmark or district by the local governing board.

The State Historic Preservation Office has prepared an overview of local landmark reports with guidelines for their preparation (<http://www.hpo.ncdcr.gov/local/LocalLandmarkReports.pdf>) and sample model reports (<http://www.hpo.ncdcr.gov/local/modelreports.html>).

The Benefits of Designation: Designation is an honor, indicating the community believes the property or district deserves recognition and protection. Owners of designated landmarks are eligible to apply for an annual 50 percent property tax deferral as long as the property's important historic features are maintained. Recapture penalties may apply if the owner destroys the property or damages its historic value. *Unlike landmark designation, local historic district designation has no effect on local property taxes for property owners within the designated district.* Historic district zoning can help to stabilize property values by maintaining the neighborhood's character, and it benefits property owners by protecting them from inappropriate

changes made by other owners that might destroy the special qualities of the neighborhood.

The Requirements of Designation: Owners of local landmarks and of property in local historic districts are required to obtain certificates of appropriateness from their preservation commission before making significant changes or additions to a property, before beginning new construction, or before demolishing or relocating a property. The commission's review of proposed changes ensures that work on a property in a district or on landmark is appropriate to the special character of the district or landmark. Commissions adopt design guidelines as the criteria to judge what changes are appropriate. Property owners also use the design guidelines to plan possible projects, and to discuss their applications with the commission.

APPENDIX B

N. C. G. S. 160A-400

§ 160A-400.7. Historic Preservation Commission. Before it may designate one or more landmarks or historic districts, a municipality shall establish or designate a historic preservation commission. The municipal governing board shall determine the number of the members of the commission, which shall be at least three, and the length of their terms, which shall be no greater than four years. A majority of the members of such a commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. All the members shall reside within the territorial jurisdiction of the municipality as established pursuant to G.S. 160A-360. The commission may appoint advisory bodies and committees as appropriate. In lieu of establishing a historic preservation commission, a municipality may designate as its historic preservation commission, (i) a separate historic districts commission or a separate historic landmarks commission established pursuant to this Part to deal only with historic districts or landmarks respectively, (ii) a planning agency established pursuant to this Article, or (iii) a community appearance commission established pursuant to Part 7 of this Article. In order for a commission or board other than the preservation commission to be designated, at least three of its members shall have demonstrated special interest, experience, or education in history, architecture, or related fields. At the discretion of the municipality the ordinance may also provide that the preservation commission may exercise within a historic district any or all of the powers of a planning agency or a community appearance commission. A county and one or more cities in the county may establish or designate a joint preservation commission. If a joint commission is established or designated, the county and cities involved shall determine the residence requirements of members of the joint preservation commission. (1989, c. 706, s. 2.)

§ 160A-400.8. Powers of the Historic Preservation Commission. A preservation commission established pursuant to this Part may, within the zoning jurisdiction of the municipality: (1) Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance; (2) Recommend to the municipal governing board areas to be designated by ordinance as "Historic Districts"; and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks"; (3) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property; (4) Restore, preserve and operate historic properties; (5) Recommend to the governing board that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause; (6) Conduct an educational program with respect to

historic properties and districts within its jurisdiction; (7) Cooperate with the State, federal, and local governments in pursuance of the purposes of this Part. The governing board or the commission when authorized by the governing board may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law; (8) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof; (9) Prepare and recommend the official adoption of a preservation element as part of the municipality's comprehensive plan; (10) Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, pursuant to this Part; and (11) Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate. (1989, c. 706, s. 2.)

§ 160A-400.9. Certificate of appropriateness required. (a) From and after the designation of a landmark or a 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 to and approved by the preservation commission. The municipality shall require such a certificate to be issued by the commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Part. A certificate of appropriateness shall be required whether or not a building or other permit is required. For purposes of this Part, "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size, and location of all such signs. Such "exterior features" may, in the discretion of the local governing board, include historic signs, color, and significant landscape, archaeological, and natural features of the area. Except as provided in (b) below, the commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district which would be incongruous with the special character of the landmark or district. (b) Notwithstanding subsection (a) of this section, jurisdiction of the commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of an owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the register of deeds of the county in which the property is located and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior. (c) Prior to any action to enforce a landmark or

historic district ordinance, the commission shall (i) prepare and adopt rules of procedure, and (ii) prepare and adopt principles and guidelines not inconsistent with this Part for new construction, alterations, additions, moving and demolition. The ordinance may provide, subject to prior adoption by the preservation commission of detailed standards, for the review and approval by an administrative official of applications for a certificate of appropriateness or of minor works as defined by ordinance; provided, however, that no application for a certificate of appropriateness may be denied without formal action by the preservation commission. Prior to issuance or denial of a certificate of appropriateness the commission shall take such steps as may be reasonably required in the ordinance and/or rules of procedure to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard. In cases where the commission deems it necessary, it may hold a public hearing concerning the application. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, Chapter 143, Article 33C. (d) All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date the application for a certificate of appropriateness is filed, as defined by the ordinance or the commission's rules of procedure. As part of its review procedure, the commission may view the premises and seek the advice of the Division of Archives and History or such other expert advice as it may deem necessary under the circumstances. (e) An appeal may be taken to the Board of Adjustment from the commission's action in granting or denying any certificate, which appeals (i) may be taken by any aggrieved party, (ii) shall be taken within times prescribed by the preservation commission by general rule, and (iii) shall be in the nature of certiorari. Any appeal from the Board of Adjustment's decision in any such case shall be heard by the superior court of the county in which the municipality is located. (f) All of the provisions of this Part are hereby made applicable to construction, alteration, moving and demolition by the State of North Carolina, its political subdivisions, agencies and instrumentalities, provided however they shall not apply to interiors of buildings or structures owned by the State of North Carolina. The State and its agencies shall have a right of appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under G.S. 121-12(a) from any decision of a local preservation commission. The commission shall render its decision within 30 days from the date that the notice of appeal by the State is received by it. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principles and guidelines used in reviewing applications of the State for certificates of appropriateness. The decision of the commission shall be final and binding upon both the State and the preservation commission. (1989, c. 706, s. 2.) **§ 160A-400.10. Conflict with other laws.** Whenever any ordinance adopted pursuant to this Part requires a longer waiting period or imposes other higher standards with respect to a designated historic landmark or district than are established under any other statute, charter provision, or regulation, this Part shall govern. Whenever the provisions of any other statute, charter provision, ordinance or regulation require a longer waiting period or impose other higher standards than are established under this Part, such other statute, charter provision, ordinance or regulation shall govern. (1989, c. 706, s. 2.) **§ 160A-400.11. Remedies.** In case any building, structure, site, area or object designated as a historic landmark or located within a historic district designated pursuant to this Part is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the ordinance or other provisions of this Part, the city or county, the historic preservation commission, or other party aggrieved by such action may institute any

appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area or object. Such remedies shall be in addition to any others authorized by this Chapter for violation of a municipal ordinance. (1989, c. 706, s. 2.)

§ 160A-400.12. Appropriations. A city or county governing board is authorized to make appropriations to a historic preservation commission established pursuant to this Part in any amount that it may determine necessary for the expenses of the operation of the commission, and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas or objects designated as historic landmarks or within designated historic districts, or of land on which such buildings or structures are located, or to which they may be removed. (1989, c. 706, s. 2.)

§ 160A-400.13. Certain changes not prohibited. Nothing in this Part shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district or of a landmark which does not involve a change in design, material or appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, moving or demolition of any such feature which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing in this Part shall be construed to prevent a property owner from making any use of his property that is not prohibited by other law. Nothing in this Part shall be construed to prevent a) the maintenance, or b) in the event of an emergency the immediate restoration, of any existing above-ground utility structure without approval by the preservation commission. (1989, c. 706, s. 2.)

§ 160A-400.14. Delay in demolition of landmarks and buildings within historic district.

(a) An application for a certificate of appropriateness authorizing the relocation, demolition or destruction of a designated landmark or a building, structure or site within the district may not be denied except as provided in subsection (c). However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the preservation commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the preservation commission finds that a building or site within a district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition, or removal. If the commission or planning agency has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the local governing board, the demolition or destruction of any building, site, or structure located on the property of the proposed landmark or in the proposed district may be delayed by the commission or planning agency for a period of up to 180 days or until the local governing board takes final action on the designation, whichever occurs first.

(b) The governing board of any municipality may enact an ordinance to prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.

(c) An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial. (1989, c. 706, s. 2; 1991, c. 514.)

