

**NOTICE:** The Charlotte-Mecklenburg Historic Landmarks Commission (HLC) will consider amendments to its Rules of Procedure (ROP) at its April 8, 2024 regular meeting to address inconsistencies under applicable state law.

The HLC will consider amendments to its ROP that make clear the following: (1) every Ordinance designating a Landmark remains in effect unless and until it is repealed or rescinded by the relevant local government board (following a recommendation **to do so** from the HLC); and (2) that a property owner must apply for and obtain a COA from the HLC for all new construction on a Landmark, including on the designated land of a Landmark following the loss of a designated structure. Additionally, the HLC will consider an amendment that requires the HLC to (1) assess the continued significance of a designated historic landmark after a building or buildings that are part of that landmark have been lost; and (2) determine whether or not to recommend to the local governing board that the ordinance designating **that** landmark be **repealed or rescinded**.

The proposed ROP amendments are available below.

# CHARLOTTE-MECKLENBURG HISTORIC LANDMARKS COMMISSION



## BYLAWS and RULES OF PROCEDURE

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### VII. CERTIFICATES OF APPROPRIATENESS

#### A. Certificate of Appropriateness Required

As set forth in N.C. Gen. Stat. § 160D-947, after the designation of a Landmark via a Landmark Designation Ordinance adopted by the applicable governing board, no portion of the exterior features (or interior features, if included in the designation of the Landmark) of any building or other structure (including, without limitation, siding, masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor above-ground utility structures, nor any type of outdoor advertising sign, nor any new construction whether attached to a building or structure or freestanding (if the land is part of the designated Landmark), shall be erected, altered, restored, moved, or demolished on the Landmark until after an application for a Certificate of Appropriateness (“COA”) has been submitted to and approved by the CMHLC. The relevant local government shall require such a Certificate-COA to be issued by the CMHLC prior to the issuance of a building permit granted for the purposes of constructing, altering, moving, or demolishing structure. A Certificate of AppropriatenessCOA is required whether or not a building or other permit is required.

The term “exterior features” includes, but is not limited to, 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” mean the style, material, size, and location of all such signs. Such “exterior features” shall also include historic signs, colors, and significant landscape, archaeological, and natural features of the area and of the Landmark.

Unless explicitly stated otherwise, the interior of a building is included in the designation and is subject to design review by the CMHLC for all properties designated before July 1, 1978. (Jan 2022)

Note, however, that a COA is not necessary for the ordinary maintenance or repair of any exterior architectural feature of a Landmark that does not involve a change in design, material, or appearance thereof.

Every Landmark Designation Ordinance continues to be valid and remain in full force and effect unless and until it is amended, repealed, or rescinded by the adopting governing board acting on a recommendation to do so by the CMHLC after complying with the procedures set forth in N.C. Gen. Stat. § 160D-946;

### 1. Demolition

No application for a COA for the demolition of a structure on a Landmark shall be granted until the CMHLC has both inspected the structure noting significant architectural details and investigated its historical significance.

As provided in N.C. Gen. Stat. § 160D-949, an application for a COA authorizing the relocation, demolition, or destruction of a building or other structure that is ~~or is a part of a designated Landmark or part of a designated Landmark~~ may not be denied except as provided in N.C. Gen. Stat. § 160D-949(c). However, the effective date of such a ~~certificate~~ COA may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay 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 of delay, the CMHLC shall negotiate with the owner and with any other interested parties in an effort to find a means of preserving the building, structure, or site at issue.

If a Landmark Designation Ordinance includes land as part of the Landmark defined and designated therein, that land (along with any other structures, objects, sites, or areas included in the definition of the Landmark) remains a designated Landmark following the loss (whether due to destruction by fire, demolition, or otherwise) of a constituent structure (even the principal structure) of that Landmark.

Within 120 days following the CMHLC's receipt of written notice of the loss of a structure that is individually designated as a Landmark or of the principal structure of a designated Landmark that includes land (and/or other constituent structures, sites, or features), the CMHLC shall review the Landmark Designation Ordinance at issue, the Survey & Research Report and/or Designation Report that was used to support the Landmark Designation Ordinance, and any other relevant documents or information in the possession of, received by, or known to the CMHLC to determine if the loss of the structure at issue has resulted in the loss of the "special character" of the designated Landmark. If the CMHLC determines that the "special character" of the designated Landmark has been lost,

it shall recommend to the appropriate governing board that the Landmark Designation Ordinance at issue be repealed either in whole or in part.

The written notice required by the preceding paragraph shall be transmitted by the owner of the Landmark (or such owner's representative) to both the Chair of the CMHLC and the Director of the MCHLD. Only the receipt of the written notice by both shall constitute receipt by the CMHLC and trigger this review described above.

## 2. *New Construction on a Landmark*

New construction on a designated Landmark constitutes an "alteration" of that Landmark. As stated above and reiterated herein, prior to **any** new construction on the designated land of a Landmark, the owner must apply for and receive a COA as to "exterior features" as set forth in this Section VII.A regardless of whether the new construction follows the loss (whether due to destruction by fire, demolition, or otherwise) of a constituent structure (including the principal structure) of that Landmark.

In considering a COA application for new construction, the HLC will consider the "exterior features" identified in N.C. Gen. Stat. § 160D-947(a) and in this Section VII.A and the CMHLC Standards in determining whether the alteration of the Landmark by the new construction would be congruous or incongruous with the special character of the Landmark.

For purposes of this Section VII.A, new construction includes erecting the exterior portion of any building or other structure, including masonry walls, fences, light fixtures, pavement, above-ground utility structure(s), outdoor advertising sign(s), or any other appurtenant features on a Landmark.

### ***B. Principles and Standards for Consideration of Certificates of Appropriateness***

The CMHLC has adopted the CMHLC's Standards for Rehabilitation (attached) as the standards to be used to make decisions on Certificates of Appropriateness, as provided by law.

### ***C. Application Process***

An application for a ~~Certificate of Appropriateness ("COA")~~ **COA** shall be submitted to the CMHLC and the MCHLD using its online application portal, which is available at <http://landmarkscommission.org/applications-2/>. Applications shall include the documents, photographs, and other information specified in the document entitled "Application Instructions for a Certificate of Appropriateness," which is available at the above website. These Application Instructions may be updated and amended from time to time by or at the direction of the CMHLC and/or MCHLD Staff and the then-current version posted on the "Applications" page of the CMHLC website shall govern.

***D. Minor Works COAs***

A COA application is for a “Minor Works COA” if the work proposed does not significantly affect the historic character of the Landmark and clearly meets the CMHLC’s Standards for Rehabilitation, and is included in the CMHLC’s adopted list of “Projects Appropriate for Minor Works.” ~~(attached) which is incorporated herein by reference. A CMHLC Staff shall review Minor Works COA shall be reviewed by CMHLC Staff and render an administrative decision rendered on any the~~ Minor Works COA. If CMHLC Staff finds that the proposed work will not significantly affect the historic character of the Landmark property and clearly meets the CMHLC’s Standards for Rehabilitation, CMHLC Staff shall issue the Minor Works COA as soon as is practicable after this administrative decision is made.

Any COA application that is not suitable for treatment as a Minor Works COA - as determined by CMHLC Staff - shall be deemed a “Major Works COA” and shall be reviewed, considered, and voted upon by the full CMHLC in a Hearing as set forth below.

***E. Hearings for Major Works COAs***

*[NO CHANGES]*

***F. Appeals.***

Every Decision issued by the CMHLC in granting or denying a certificate of appropriateness may be appealed to the Board of Adjustment in the nature of certiorari within the later of 30 days after the Decision is effective or 30-days after a written copy of the Decision is given in accordance the provisions of Section VII.FE.9, above, as is set forth in N.C. Gen. Stat. § 160D-406(j). When first-class mail is used to deliver notice of the Decision, three days shall be added to the time to file the petition.

***G. Modifications to Certificate of Appropriateness***

A written request to modify a Certificate of Appropriateness may be submitted by an applicant. If the modification is not significant, as determined by CMHLC Staff, CMHLC Staff may approve the change. If the modification is substantial or if it cannot be approved as a Minor Work COA, the modification request will be treated as a Major Work COA application and referred back to the CMHLC for a hearing.

***H. Validity of Certificate of Appropriateness***

A Certificate of Appropriateness issued by the CMHLC shall be valid for twelve (12) months following its issuance and will thereafter expire. An expired COA is null and void and, if the work approved in the COA has not been completed, all work must cease until a new COA has been obtained.

### ~~I.A. Demolition~~

~~No application for a COA for the demolition of a Landmark shall be granted until the CMHLC has both inspected the structure noting significant architectural details and investigated its historical significance.~~

~~As provided in N.C. Gen. Stat. § 160D-949, an application for a COA authorizing the relocation, demolition, or destruction of a building or other structure that is a designated Landmark or part of a designated Landmark may not be denied except as provided in N.C. Gen. Stat. § 160D-949(e). 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 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 of delay, the CMHLC shall negotiate with the owner and with any other interested parties in an effort to find a means of preserving the building, structure, or site at issue.~~

### J.I. Consent Agenda

Staff may place Major Work applications on a Consent Agenda if Staff finds the project has no significant incongruity with the CMHLC's Standards for Rehabilitation, or if the project has been approved by the NC HPO for federal or state historic tax credits, or if the project is in a historic district and has been approved for a Certificate of Appropriateness by a historic preservation commission for the local historic district. Adoption of the Consent Agenda will serve to approve all of the items on the consent agenda. Consent Agenda items will require the same Notice of Hearings, Administrative Materials, and Written Decision as described above.

Applications on the Consent Agenda may be pulled from the Consent Agenda and then considered as a Major Work as described above.

## VIII. AMENDMENTS TO BYLAWS AND RULES OF PROCEDURE

These Bylaws and Rules of Procedure, as well as the CMHLC Standards, can be amended at any time by a vote of 75% of the members, provided that such proposed amendments have been provided to the CMHLC at least one week before the vote.

*Last Amended: 9 January 2023*