

# **Policy Manual**

## **Charlotte-Mecklenburg Historic Landmarks Commission (HLC)**

### **TABLE OF CONTENTS**

1. Statement of Purpose
2. Duties of the HLC
3. By-Laws of the HLC
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
14. Procedures for the Purchase and Sale of Real Estate
15. Travel and Training Expense Policy
16. Compliance with Federal Laws

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

Appendix B – State Enabling Legislation, N.C.G.S. 160A 400.1-400.14

Appendix C – Eminent Domain

### **1. STATEMENT OF PURPOSE**

The HLC 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 of Charlotte and Mecklenburg 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 Charlotte and Mecklenburg County and North Carolina as a whole.

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

## **2. DUTIES OF THE HLC**

Toward these ends, the HLC 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 for 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 Charlotte and Mecklenburg County about the historic elements in the local built environment through the HLC 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 HLC**

### **Charlotte-Mecklenburg Historic Landmarks Commission (HLC)**

**Charlotte, N.C.**

**BY-LAWS**

**Originally Adopted 1973**

### **I. GENERAL RULES**

The HLC 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 HLC Board should thoroughly familiarize themselves with these statutes and resolutions. In addition, the meetings of the HLC Board and Committees shall be governed by Robert's Rules of Order as revised and amended.

## II. OFFICERS AND DUTIES

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

A. Chair. The Chair shall preside over meetings of the HLC Board and shall decide all points of order and procedure, unless directed otherwise by a majority of the HLC Board in session at the time. He/she shall see that an agenda is prepared and that accurate minutes are kept and circulated. He/she shall appoint all Committee Chairs and members and serve as an ex officio member of each Committee. He/she shall act as liaison between the HLC Board and the Director "defined in Section 9". He/she shall see that effective presentations are made to the Mecklenburg County Commission and Charlotte City Council and other appropriate bodies of local government and that the policies of the HLC are carried out. He/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 HLC Board.

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/she shall perform such other duties and have such other powers as may be prescribed by the Chair or the HLC Board.

C. Secretary. The Secretary shall review with Staff any needed changes/updates to the HLC Policy Manual and present to the HLC Board for its approval at the June Board meeting. If any changes are made in the year preceding the June Board meeting, Staff will incorporate these changes into the HLC Policy Manual.

D. Treasurer. The Treasurer shall report monthly on the status of the HLC's Revolving Fund (defined in Section 6).

## III. COMMITTEES

There shall be such committees as the HLC requires. Committee Chairs and members are appointed by the HLC Chair. Meetings are held as needed. The Committees are as follows:

A. Survey Committee. The Survey Committee shall be responsible for identifying buildings, structures, sites, areas, and objects in Charlotte and Mecklenburg County for possible designation as historic landmarks and shall see that they are brought to the attention of the HLC in an orderly fashion. A Study List of all prospective historic landmarks shall be developed and maintained by HLC Staff. Recommendations are presented to the HLC Board for final approval.

B. Design Review. The Design Review Committee meets on a regular basis to consider applications for Certificates of Appropriateness (defined in Section 12) for locally designated historic landmarks. Recommendations are presented to the HLC

Board for final approval.

C. Projects Committee. The Projects Committee evaluates historic properties that have potential for HLC purchase and sale under the HLC's Revolving Fund. Recommendations are presented to the HLC Board for final approval.

D. Executive Committee. The Executive Committee 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 HLC Board. All personnel decisions are made by the HLC Board meeting in executive session.

The HLC Board has established the policy and procedure set forth below for the approval of expenditures by the Executive Committee and the HLC Staff:

- **Executive Committee and Staff Approval for Expenditure of Funds.** It is the policy of the HLC that expenditures be approved by a vote of the HLC Board 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 expenditure of funds prior to the next meeting of the HLC Board. Therefore, the Executive Committee (and Staff in the case of Item d) shall have the authority to authorize expenditures from the funds of the HLC, without the approval of the HLC Board, 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 the HLC 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 the HLC, in 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 HLC 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 the HLC up to the sum of \$10,000.00 per incident or occurrence.
  - d. **Expenditures by Staff.** The Director shall have the authority to approve expenditures associated with the real estate owned by the HLC up to the sum of \$2,500.00 per incident or occurrence. Approval of the Executive Committee

is not required. The Director will report such expenditures at the next regular HLC Board meeting.

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

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

#### IV. MEETINGS

A. Regular Meetings. Regular meetings of the HLC Board shall be held on the second Monday of each month at 6:00 p.m. at the HLC office, or at such other place as shall be specified by the HLC Chair in advance of the meeting. Public notice of meetings shall comply with N.C.G.S. 143-318.12. The HLC Board does not hold meetings in July of each year.

B. Special Meetings. Special meetings of the HLC Board 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 HLC Board. Public notice of meetings shall comply with N.C.G.S. 143-318.12.

C. Quorum. A majority of the voting members of the HLC Board shall constitute a quorum. Attendance requirements are in accordance with City and County rulings, as follows: Attendance runs January 1<sup>st</sup> - December 31<sup>st</sup>. There are no excused absences for sickness, business, or personal matters of any kind. City and Mayor appointees will follow the City of Charlotte's attendance policies; County appointees will follow Mecklenburg County's attendance policies.

**Charlotte City Council's** attendance policy requires HLC Board members to attend 65% of all regular HLC Board meetings, special meetings, and assigned subcommittee meetings from the time a term begins until the end of that calendar year and each subsequent calendar year thereafter. HLC Board members must be present for 50% of a meeting in order to be counted present at that meeting, and members cannot miss three consecutive regular meetings of this board. (Current as of 05-01-2018.)

**Mecklenburg County's** attendance policy requires HLC Board members to attend 65% of all regularly scheduled HLC Board meetings from the time a term begins until the end of that calendar year and each subsequent calendar year thereafter. HLC Board members must be present for 50% of a meeting in order to be counted present at that meeting, and members cannot miss three consecutive regularly scheduled HLC Board meetings. (Current as of 05-01-2018.)

D. Conduct of Meeting. All meetings shall be open to the public. The order of business at regular meetings, unless amended by the HLC Board, shall be as follows: a) approval

of minutes, b) HLC Chair report, c) Director's Report, d) Committee Reports, e) old business, f) new business. The HLC Board can go into Closed Session to discuss issues allowed by North Carolina's Open Meetings Law.

E. Annual Meeting. The annual meeting, where HLC officers are elected for the new fiscal year beginning July 1<sup>st</sup> and ending June 30<sup>th</sup>, is held in June of each year.

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

## V. AMENDMENTS

HLC rules/by-laws may be amended at any time by a majority of the members of the HLC Board.

### 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.

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

1. The historic landmarks commission must issue a Certificate of Appropriateness (COA) for any material alteration to a historic landmark. The effective date for a COA for demolition can be delayed for up to 365 days, but cannot be denied. 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.
3. If an historic landmark has been determined by the State Historic Preservation Officer to have state-wide significance, a COA for Demolition may be denied.
4. The historic landmarks commission may acquire the fee simple or any lesser included interest in a historic landmark and dispose of same, consistent with the purposes of historic preservation.
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 conveys if the property is sold. 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. Staff of the HLC meets with a budget analyst to determine whether the budget for the upcoming fiscal year (July 1 to June 30) will remain at the current level, will allow for increased services, or require a decrease in services. If the budget will be kept at a current level budget, no action will be required of the HLC Board. If the County will accept requests for increased services, HLC Staff will solicit input from the HLC Board, and develop a list of requests for increased services for presentation to the Budget Department. If a decrease in services is required, HLC Staff will solicit input from the HLC Board, and develop a list of budget cuts.

## **6. REVOLVING FUND**

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

***Program Description*** – The Revolving Fund was established by issuance of public bonds and the commitment of other monies to preserve and rehabilitate properties that are deemed "historic." Properties acquired by the HLC must be designated local historic landmarks or contributing structures in a local historic district.

***Eligibility Requirements*** – Three significant factors for consideration of eligibility for the acquisition of the fee simple or any lesser included interest are: special significance, level of endangerment, and economic viability.

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

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

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

## **7. INTERLOCAL AGREEMENTS**

The HLC has Interlocal Agreements with the following municipalities: Cornelius, Davidson, Huntersville, Matthews, and Pineville. These Interlocal Agreements, adopted by each municipality, establish the HLC as the historic landmarks commission for each

municipality.

## **8. CERTIFIED LOCAL GOVERNMENT (CLG) PROGRAM**

In 1980, Congress amended the National Historic Preservation Act of 1966 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. As a preservation commission for Mecklenburg County and the City of Charlotte, the HLC is required to hold public hearings and comment on nominations to the National Register. The HLC must also participate in training to maintain Mecklenburg County and the City of Charlotte's CLG status. This requires that the designated HLC staff member and two HLC commissioners attend annual approved CLG training.

## **9. DUTIES OF THE DIRECTOR AND SUPPORT STAFF**

Note: The HLC has a Consultant (Director) and Employees. Employees are hired and paid by Mecklenburg County and receive County benefits.

The Director is hired by the HLC Board. His/her compensation is negotiated and included in a contract between the Director and the HLC Board. The Director's compensation is included in the HLC Annual Budget.

***The Director (Consultant)*** – The Director (also referred to as the Consulting Director) shall be the principal administrative officer of the HLC. The Director shall conduct all business that has not been specifically assigned to others and see that the policies and directives of the HLC are carried out. The Director shall provide continuing planning and organizational support for the HLC. The Director shall attend the meetings of the HLC Board 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 HLC has jurisdiction and assist in the review of Survey and Research 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 HLC Board. It is understood that the duties enumerated above do not include all responsibilities that might involve the Director. However, duties and responsibilities specifically do not include preparation of Survey and Research Reports

***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 HLC with the review of Survey and Research Reports and assume 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. Duties do not include creating/producing Survey and Research Reports.

**HLC Attorney** – The HLC Attorney provides legal guidance to HLC in its investigation of, purchase and sale of, and ownership of real estate. In addition to providing general real estate advice, he/she prepares contracts, restrictive covenants, leases, and all real estate documentation needed by the HLC. The HLC 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 HLC Attorney, or members of his/her firm, may handle additional matters for HLC, but refers most other matters and any administrative matters to the Mecklenburg County Attorney. The HLC 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 HLC Attorney.

**Mecklenburg County Attorney** – This position provides general legal advice to HLC including advice regarding administrative law matters, use of bond money, relationship with Mecklenburg County, statutory authority of HLC, 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 and Facility Management Department of Mecklenburg County, is responsible for advising and assisting the HLC with property acquisition, design and 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 landmark 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 Board. The position assists with evaluating the feasibility of property purchases, determining project requirements, preparing budget estimates, selecting consultants and negotiating fees for architectural/engineering design, reviewing and approving design and construction document phase submittals from consultants, managing the bidding phase, hiring and negotiating with construction contractors, and managing/monitoring 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 HLC 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 HLC. Work includes assisting and supporting the Director and Preservation Planner, and with design review, historic landmark designation processes, and preparing materials for meetings of the HLC Board and its constituent committees. The Administrative Assistant shall maintain the HLC’s Study List (defined in Section 10) of potentially eligible properties for local historic landmark designation, assist in the processing and issuance of applications for Certificates of Appropriateness, mail notifications necessary in the design review and historic designation processes, and assist in providing information to the public, HLC Staff, and HLC Board. 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 reviews Survey and Research Reports, historic property surveys, and proposed changes to the designation ordinances of designated landmarks.

The Director is authorized to approve preparation of a Survey and Research Report by an outside consultant for a fee not to exceed \$3,500.00. The Director, with the approval of the Chair of the Survey Committee, may prepare Survey and Research Reports for a fee not to exceed \$3,500.00. Expenditures for Survey and Research Reports in excess of \$3,500.00 must be approved by the HLC Board.

The Survey Committee maintains a Study List, which is a database of properties that have been judged to be good potential candidates for historic landmark designation. The Study List is an organizational tool and does not place any restrictions on the property and has no other legal consequences. Properties must be reviewed and approved by the Survey Committee before they can be added to the Study List. HLC Staff and the HLC Board can recommend to the Survey Committee that properties be added to the Study List. Property owners or other interested parties can make a written request that the Survey Committee add a property to the Study List.

## **11. LOCAL HISTORIC LANDMARK DESIGNATION PROCESS**

1. The designation process can be initiated in two ways. 1) The designation process can be initiated for a property on the Study List with the submittal of a Potential Historic Landmark Application Form by the property owner or other interested party. If the owner is not requesting designation, the property owner will be notified of the application. The HLC Board will be notified of all new Potential Historic Landmark Applications at its

regular meetings. 2) The designation process can be initiated for any historic property by a vote of the HLC Board. The property owner will be given reasonable notice of the HLC meeting, and will be given an opportunity to comment. If the HLC Board votes to initiate the designation process, the owner will be notified. The property owner will be provided a "Legal Consequences of Designation" sheet.

2. A Survey and Research Report is required for all properties being processed for landmark designation. Survey and Research Reports are used as legal findings of fact by the HLC and the local governing boards to judge the significance of properties. It is strongly advised that Survey and Research Reports should only be produced by professional historic preservationists or historians, or by academics or other professionals who can demonstrate expertise in the historic built environment. It is strongly advised that potential applicants contact HLC Staff to discuss the property's current integrity and significance before a Survey and Research Report is produced. All Survey and Research Reports produced by outside parties must be submitted to HLC Staff for review and approval as to form. HLC Staff will maintain a list of outside consultants who have experience in preparing Survey and Research Reports. The list will be shared with potential applicants with a disclaimer that it is for information only and that use of a party on the list does not guarantee acceptance of the report or a recommendation of designation of the property as a historic landmark.

3. In general, the HLC requires that a Survey and Research Report be prepared at the expense of the property owner or other interested party. However, the HLC may authorize payment for the preparation of Survey and Research Reports when 1) the property owner, or other interested parties, demonstrate 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, or 3) when HLC programmatic functions, e.g., property acquisition, require historic landmark designation.

4. Consideration by the HLC of a potential historic landmark typically begins with a review of the property's Survey and Research Report by the Survey Committee. The Survey Committee may then make a recommendation to the HLC Board that the property be processed for historic landmark designation. The property owner will be given reasonable notice of the meeting. If it is deemed necessary by HLC Staff, a Survey and Research Report may be presented directly to the HLC Board with the approval of the Chair of the Survey Committee.

5. The HLC Board will consider the Survey Committee's recommendations at its regular meetings. After reviewing a Survey and Research Report, the HLC Board may vote to recommend or not recommend that the property be designated as a local historic landmark by the local governing board. The property owner will be given reasonable notice of the meeting.

6. 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."

7. HLC Staff will notify local government agencies as required by the local governing boards. 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 Department of Transportation
- Charlotte Historic District Commission
- Charlotte Water
- Charlotte Planning Department
- Mecklenburg County Land Use & Environmental Services Agency (LUESA)
- Mecklenburg County Park and Recreation
- Housing & Neighborhood Services  
(Current as of 05-01-2018.)

8. State Statutes mandate that the N.C. 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 N.C. Division of Archives and History. Comments, which are advisory in nature, must be made within 30 days of receipt. If the N.C. Division of Archives and History comments unfavorably on the prospective designation of a historic landmark, HLC Staff will advise the HLC Board of this fact and provide an opportunity for the HLC Board to affirm, amend or withdraw its recommendation regarding the prospective historic landmark.

9. If the HLC Board proceeds with its recommendation regarding the prospective historic landmark, HLC Staff will take the following actions:

- 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. For a property in Charlotte or Charlotte's ETJ, the following materials are sent to the appropriate 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
  - Estimate of the potential deferred taxes
  - Department Review Summary
  - Archives and History Comment Letter
  - A draft of the Ordinance
- C. For a property in Cornelius, Davidson, Huntersville, Matthews, or Pineville, or in the ETJs associated with these towns, the following materials are sent to the appropriate Town Clerk:
  - Cover Page (facts sheet on property)

- Survey and Research Report
- Estimate of the potential deferred taxes
- Archives and History Comment Letter
- A draft of the Ordinance

(Current as of 05-01-2018.)

10. Before a governing board can adopt an ordinance designating a property as a historic landmark, public hearings must be held by the governing boards and the HLC to discuss the proposed designation and to give the public an opportunity to comment. HLC Staff will schedule the public hearings. 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. Property owners will be given reasonable notice of the dates of the forthcoming public hearings.

11. If possible, HLC Staff will attend all public hearings held by the governing boards.

12. 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.

13. If the appropriate governing board votes to adopt an ordinance designating a property as a local historic landmark, a certified copy of the ordinance must be produced. HLC Staff is responsible for registering the ordinance with the Mecklenburg County Register of Deeds.

14. 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:

- N.C. Division of Archives and History
- Mecklenburg County Tax Office
- The appropriate building standards and/or planning departments for the municipality
- City or town clerk
- Mecklenburg County GIS department

(Current as of 05-01-2018.)

15. The property owner will also receive a copy of the ordinance, contact information for the Mecklenburg County Tax Office (for properties eligible for a property tax deferral), and a reminder about the procedures of the design review process.

16. The owner may request a plaque identifying his/her property as a historic landmark.

## **12. DESIGN REVIEW PROCESS**

The HLC Board has adopted the Secretary of the Interior's Guidelines for Rehabilitation, as amended, as its design review standards to determine the appropriateness or inappropriateness of intended changes to historic landmarks.

The Design Review Committee, except as stipulated below, formulates recommendations regarding the issuance of Certificates of Appropriateness (COAs) for intended physical changes to historic landmarks. It is, therefore, the HLC's instrument of design review. COAs can be one of two types: Major Works or Minor Works.

- A Major Works COA application is reviewed by the Design Review Committee before a recommendation is presented to the HLC Board for action. If necessary, an application for a Major Works COA may be presented directly to the HLC Board with the approval of the Design Review Committee Chair. An Express Review tract is available to COA applicants that allows the applicant to present his/her application directly to the HLC Board at the next regular meeting.

After receiving an application for a COA, HLC Staff is required to notify all property owners located within 100 feet of the property. Other interested parties may also be notified of the COA application. If a property is located in a local historic district, the district commission is notified of the COA application. This notification provides the time and place of the meeting of the Design Review Committee at which the prospective project will be considered.

- A Minor Works COA is issued for incidental changes. A Minor Works COA can be issued if the Chair of the Design Review Committee and HLC Staff agree that the proposed project is appropriate.

Any concerns regarding possible unapproved alterations to designated historic landmarks should be directed to HLC Staff, which will then investigate and report to the HLC Board.

## **13. GUIDELINES FOR PROJECTS AND REAL ESTATE ACQUISITIONS**

The HLC is allowed by State Enabling Legislation to purchase a property in its own name. This is significant because it absolves the HLC from the property acquisition and disposal procedures mandated for local governments, e.g., mandatory sale to the highest bidder. The HLC 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 HLC appreciates that each property possesses a unique character that suggests a variety of potential preservation strategies (all of which, to qualify for HLC 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 HLC 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 HLC 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 HLC 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 HLC 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 HLC 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.

## **14. PROCEDURES FOR THE PURCHASE AND SALE OF REAL ESTATE**

### 1. Sale of Real Estate

If HLC has a realtor:

- 1) Realtor oversees marketing of properties and brings all offers with recommendations to the attention of the Director of the HLC.
- 2) Director consults with the Chair of the HLC and the Chair of the Projects Committee to determine if a meeting of the Projects Committee should be scheduled. If answer is "yes," HLC Staff sends out a notice for the Projects Committee Meeting.
- 3) The Projects Committee meets and determines whether: a) a recommendation on the submitted offer(s) should be made to the HLC, or b) counter offer(s) should be pursued. Once counter offer(s), if any, are resolved, the Projects Committee makes a recommendation and presents it to the HLC for action.

If HLC does not have a realtor:

- 1) Any inquiries for purchase are made to the Director of the HLC. The Director states no sales price but invites the party(ies) to submit their highest and best offer.
- 2) If an offer(s) is submitted to the Director, he/she consults with the Chair of the HLC and the Chair of the Projects Committee to determine if a meeting of the Projects Committee should be scheduled. If answer is "yes," HLC Staff sends out a notice for the Projects Committee meeting.
- 3) The Projects Committee meets and determines whether: a) a recommendation on the submitted offer(s) should be made to the HLC Board, or b) counter offer(s) should be pursued. Once counter offer(s), if any, are resolved, the Projects Committee makes a recommendation and presents it to the HLC Board for action.

### 2. Purchase of Real Estate

If HLC has a realtor:

- 1) Realtor oversees investigation of prospective purchase of properties by the HLC and brings all prospective purchases by the HLC with recommendations to the attention of the Director of the HLC.
- 2) Director consults with the Chair of the HLC and the Chair of the Projects Committee to determine if a meeting of the Projects Committee should be scheduled. If answer is "yes," HLC Staff sends out a notice for the Projects Committee meeting.
- 3) The Projects Committee meets and determines whether: a) a recommendation on the prospective purchase(s) by the HLC should be made to the HLC, or b) counter offer(s) should be pursued. Once counter offer(s), if any, are resolved, the Projects Committee makes a recommendation and presents it to the HLC for action.

If HLC does not have a realtor:

- 1) Any prospective purchases by the HLC are presented to the Director of the HLC.
- 2) The Director consults with the Chair of the HLC and the Chair of the Projects Committee to determine if a meeting of the Projects Committee should be scheduled. If answer is "yes," HLC Staff sends out a notice for the Projects Committee meeting.
- 3) The Projects Committee meets and determines whether: a) a recommendation on the prospective purchase(s) by the HLC should be made to the HLC Board, or b) counter offer(s) should be pursued. Once counter offer(s), if any, are resolved, the Projects Committee makes a recommendation and presents it to the HLC Board for action.

## **15. TRAVEL AND TRAINING EXPENSE POLICY**

Among provisions for Mecklenburg County and the City of Charlotte to maintain its CLG status, HLC Board members (current minimum of two) are required to attend a professional training conference each year. The HLC will authorize payment of expenses for members attending the training conference in accordance with the Travel section of the Mecklenburg County Financial Policies & Procedures, as revised and amended.

## **16. COMPLIANCE WITH FEDERAL LAWS**

The HLC will not engage in unlawful discrimination with respect to all aspects of its employment policy and practice including with respect to race, color, religion, sex, national origin, disability, age, political affiliation, or on the basis of actual or perceived gender as expressed through dress, appearance, or behavior. In addition, the HLC will not engage in discrimination on the basis of sexual orientation with respect to all aspects of HLC employment policy and practice.

The HLC will comply with the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability. The HLC will make reasonable accommodations in all programs to enable participation by an individual with a disability who meets essential eligibility requirements. HLC programs will be available in the most integrated setting for each individual.

Approved by the HLC Board on June 11, 2018.

## **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 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 – State Enabling Legislation, N.C.G.S. 160A 400.1-400.14**

### **§ 160A-400.1. Legislative findings.**

The historical heritage of our State is one of our most valued and important assets. The conservation and preservation of historic districts and landmarks stabilize and increase property values in their areas and strengthen the overall economy of the State. This Part authorizes cities and counties of the State within their respective zoning jurisdictions and by means of listing, regulation, and acquisition:

- (1) To safeguard the heritage of the city or county by preserving any district or landmark therein that embodies important elements of its culture, history, architectural history, or prehistory; and
- (2) To promote the use and conservation of such district or landmark for the education, pleasure and enrichment of the residents of the city or county and the State as a whole. (1989, c. 706, s. 2.)

### **§ 160A-400.2. Exercise of powers by counties as well as cities.**

The term "municipality" or "municipal" as used in G.S. 160A-400.1 through 160A-400.14 shall be deemed to include the governing board or legislative board of a county, to the end that counties may exercise the same powers as cities with respect to the establishment of historic districts and designation of landmarks. (1989, c. 706, s. 2; 1989 (Reg. Sess., 1990), c. 1024, s. 40.)

### **§ 160A-400.3. Character of historic district defined.**

Historic districts established pursuant to this Part shall consist of areas which are deemed to be of special significance in terms of their history, prehistory, architecture, and/or culture, and to possess integrity of design, setting, materials, feeling, and association. (1989, c. 706, s. 2.)

### **§ 160A-400.4. Designation of historic districts.**

(a) Any municipal governing board may, as part of a zoning or other ordinance enacted or amended pursuant to this Article, designate and from time to time amend one or more historic districts within the area subject to the ordinance. Such ordinance may treat historic districts either as a separate use district classification or as districts which overlay other zoning districts. Where historic districts are designated as separate use districts, the zoning ordinance may include as uses by right or as conditional uses those uses found by the Preservation Commission to have existed during the period sought to be restored or preserved, or to be compatible with the restoration or preservation of the district.

(b) No historic district or districts shall be designated under subsection (a) of this section until:

- (1) An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared, and
- (2) The Department of Natural and Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the municipal governing board within 30 calendar days after a written request for such analysis has been received by the Department of Natural and Cultural Resources shall relieve the municipality of any responsibility for awaiting such analysis, and said board may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

(c) The municipal governing board may also, in its discretion, refer the report and proposed boundaries under subsection (b) of this section to any local preservation commission or other interested body for its recommendations prior to taking action to amend the zoning ordinance. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subdivision (1) of subsection (b) of this section shall be prepared by the preservation commission, and shall be referred to the local planning agency for its review and comment according to procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the Department of Natural and Cultural Resources in accordance with the provisions of subdivision (2) of subsection (b) of this section.

On receipt of these reports and recommendations, the municipality may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning ordinance provisions.

(d) The provisions of G.S. 160A-201 apply to zoning or other ordinances pertaining to historic districts, and the authority under G.S. 160A-201(b) for the ordinance to regulate the location or screening of solar collectors may encompass requiring the use of plantings or other measures to ensure that the use of solar collectors is not incongruous with the special character of the district. (1989, c. 706, s. 2; 2009-553, s. 4; 2015-241, s. 14.30(s).)

**§ 160A-400.5. Designation of landmarks; adoption of an ordinance; criteria for designation.**

Upon complying with G.S. 160A-400.6, the governing board may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a historic landmark unless it is deemed and found by the preservation commission to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, or prehistorical value, including the land area of the property so designated, and any other information the governing board deems necessary. For each building, structure, site, area, or object so designated as a historic landmark, the ordinance shall require that the waiting period set forth in this Part be observed prior to its demolition. For each designated landmark, the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right-of-way. (1989, c. 706, s. 2.)

#### **§ 160A-400.6. Required landmark designation procedures.**

As a guide for the identification and evaluation of landmarks, the commission shall undertake, at the earliest possible time and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistorical, and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Office of Archives and History. No ordinance designating a historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by a preservation commission or the governing board of a municipality, until all of the following procedural steps have been taken:

- (1) The preservation commission shall (i) prepare and adopt rules of procedure, and (ii) prepare and adopt principles and guidelines, not inconsistent with this Part, for altering, restoring, moving, or demolishing properties designated as landmarks.
- (2) The preservation commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such investigation or report shall be forwarded to the Office of Archives and History, North Carolina Department of Natural and Cultural Resources.

- (3) The Department of Natural and Cultural Resources, acting through the State Historic Preservation Officer shall either upon request of the department or at the initiative of the preservation commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this Part. Any comments shall be provided in writing. If the Department does not submit its comments or recommendation in connection with any designation within 30 days following receipt by the Department of the investigation and report of the commission, the commission and any city or county governing board shall be relieved of any responsibility to consider such comments.
- (4) The preservation commission and the governing board shall hold a joint public hearing or separate public hearings on the proposed ordinance. Reasonable notice of the time and place thereof shall be given. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, Chapter 143, Article 33C.
- (5) Following the joint public hearing or separate public hearings, the governing board may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
- (6) Upon adoption of the ordinance, the owners and occupants of each designated landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the preservation commission in the office of the register of deeds of the county in which the landmark or landmarks are located. In the case of any landmark property lying within the zoning jurisdiction of a city, a second copy of the ordinance and all amendments thereto shall be kept on file in the office of the city or town clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the city or county building inspector. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the county or city for such period as the designation remains in effect.
- (7) Upon the adoption of the landmarks ordinance or any amendment thereto, it shall be the duty of the preservation commission to give notice thereof to the tax supervisor of the county in which the property is located. The designation and any

recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes. (1989, c. 706, s. 2; 2002-159, s. 35(m); 2012-18, s. 1.24; 2015-241, s. 14.30(s).)

**§ 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 board 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 board 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; 2005-418, s. 12.)

**§ 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. Protection of certain landmarks; permissible changes.**

(a) Objects of Remembrance. - G.S. 100-2.1 supersedes this Part with regard to the removal or relocation of a historic landmark designated under this Part that meets the definition of an "object of remembrance" as defined in G.S. 100-2.1.

(b) Other Historic Landmarks. - 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; 2015-170, s. 3(d).)

**§ 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 board 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 board 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, s. 1; 2005-418, s. 13.)

## **Appendix C – Eminent Domain**

### **§ 40A-3.**

(b) Local Public Condemnors - Standard Provision. - For the public use or benefit, the governing body of each municipality or county shall possess the power of eminent domain and may acquire by purchase, gift or condemnation any property, either inside or outside its boundaries, for the following purposes.

- (8) Acquiring designated historic properties, designated as such before October 1, 1989, or acquiring a designated landmark designated as such on or after October 1, 1989, for which an application has been made for a certificate of appropriateness for demolition, in pursuance of the purposes of G.S. 160A-399.3, Chapter 160A, Article 19, Part 3B, effective until October 1, 1989, or G.S. 160A-400.14, whichever is appropriate.