



CITY OF ANNAPOLIS HISTORIC PRESERVATION DIVISION

Department of Planning & Zoning

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Historic Preservation Commission Rules of Procedure

These Rules of Procedure are adopted pursuant to the Annapolis City Code 21.08.060 21.10, and 21.56 Article 1 adopted pursuant to the authority granted by the state historic area zoning enabling act (1963 Md. Laws Ch. 874, S.B. 413), now codified as Land Use Article, Annotated Code of Maryland as amended from time to time. These rules are intended to supplement city code 21.08.060.D and are legally enforceable.

Article 1: Powers

The Commission may hear and decide on applications for certificate of approval permitted by Annapolis City Code adopted pursuant to the authority granted by the state historic area zoning enabling act (1963 Md. Laws Ch. 874, S.B. 413), now codified as Land Use Article, annotated code of Maryland, and are supplemental to and interpretative of these statutory provisions.

Article 2 : Initial and Subsequent Filing Requirements

Initial application

2.1 In accordance with Code section 21.56.040.A, the person, individual, firm, or corporation proposing to make the construction or change shall file an application for a certificate of approval with the Commission for permission to construct, alter, rehabilitate, restore, reconstruct, move, or demolish the landmark, site, or structure. In regard to proposed maintenance or repair, property owners are encouraged to contact the Historic Preservation Division for review. Maintenance and repair is defined in Annapolis Code section 21.56.020. Based on this consultation, the Chief of Historic Preservation Division shall determine if an application is required.

2.2 Applications shall contain all information required by the Annapolis city code 21.06.040.B and as supplemented by Section 2.4 of these rules of procedure and be submitted on a form provided by the Historic Preservation Division.

2.3 Each application shall be numbered serially and docketed.

2.4 A completed application shall comply with the checklists maintained by the Historic Preservation Division, either the Historic Preservation Commission Administrative Approval Application Checklist or the Public Hearing Application Checklist.

2.5 An application for a certificate of approval shall be filed with the historic preservation staff to the Commission in the Planning and Zoning Department at 145 Gorman Street, 3rd Floor according to the schedule for application deadlines published at the beginning of every calendar year. The Chief of Historic Preservation shall determine when an application is sufficiently complete and shall inform that applicant upon that determination. If the application is determined to be incomplete, the Chief shall advise the applicant of the necessary information that remains outstanding and provide the applicant with the opportunity to amend the application. The historic preservation staff shall make very reasonable effort to effect a timely outcome, but the responsibility for filing a complete application in a timely fashion is the applicant's.

Applications may be rejected and returned to the applicant(s) if:

(a) Planning and Zoning Department rules that the project cannot be authorized because of code or zoning restrictions;

(b) the application does not include all the information required for commission review;
or

(c) an outstanding historic preservation ordinance violation on the property has not been abated. The applicant has the right to appeal the determination of an application as incomplete and present it to the full Commission for a ruling.

An applicant may withdraw an application in whole or in part at any time prior to or during a public hearing on the application.

2.6 Once a complete and timely application is filed and date-stamped by the Historic Preservation Division staff, the application and all exhibits shall be distributed to the Commission. The Commission will act upon the application in a timely manner in accordance with Annapolis City Code 21.56.070.C.

2.7 The Historic Preservation Division staff shall file a staff report of written comments with an analysis of the application and recommendations for approval, conditional approval or denial. Other city staff, consultants, other city commissions or advisory boards and public interest groups may file written comments. The staff report and any other written comments shall be distributed to the Commission.

2.8 Any applicant who wishes to amend an application after review of the written comments may do so before the hearing by submitting revisions to the Historic Preservation Division and the revisions will be distributed to the Commission.

Administrative review

2.9 The Historic Preservation Division staff is authorized by the Commission to review some improvements, as outlined in the Historic Preservation Commission Administrative Approval Guidelines attached to and part of this document. The administrative approval process shall include the following:

- (a) Applications for administrative approval shall be filed with historic preservation staff;
- (b) A completed application for administrative approval shall include a description of the work, drawings or acceptable substitutes, specifications, photographs, a site plan, and a letter of concurrence from easement holder, if applicable;
- (c) If the proposed work meets the attached guidelines, an administrative certificate of approval shall be issued to the applicant immediately following historic preservation staff review;
- (d) The Historic Preservation Division staff shall submit a list of administrative approvals quarterly to the Commission.

Pre-application meeting

2.10 A pre-application meeting may be scheduled to provide an applicant with the opportunity for preliminary review of a project by the Commission prior to submitting a complete application for a certificate of approval. The procedure shall be as follows:

- (a) Any prospective applicant may request a meeting with the Commission prior to submitting an application. Pre-application meetings may be scheduled for any commission meeting.
- (c) Following the applicant's presentation, the Chair shall first elicit a response from each commissioner present regarding the feasibility of the proposal. The Chair or a commission member may solicit the opinion of staff, consultants or the public following the commissioners' response. The chair will then provide a summary of the discussion for the applicant. Any comments made by the Historic Preservation Commission members at a pre-application meeting are in no way to be interpreted as an approval of the projects. Absence of comment on any aspect of the presentations does not indicate acceptance. The pre-application meeting is solely an accommodation for the applicant.

Article 3 . Conduct of meetings

3.1 All meetings of the Commissions, except those meetings allowed by law to be closed, shall be open to the public.

3.2 In the absence of both the chair and the vice chair at any proceeding of the commission, the senior board member in terms of length of service shall act as Chair and shall preside with all the powers of the Chair.

3.3 A record of every meeting, including, meeting minutes, the application(s) with exhibits, (including the staff report) the decision and other opinions, if any, shall be maintained on file for public inspection in accordance with Annapolis City Code chapter 21.08.060 D.2.

3.4 Public administrative meetings may be held at the discretion of the Chair to review other matters before the commission that do not require public testimony. Public administrative meetings shall require 7 days advance public notice, which shall include legal advertisement or a listing of the City web page.

3.5 A closed meeting or special meeting may be held at the request of any commissioner. Closed meetings shall require advance public notice, which shall include legal advertisement or a listing of the City web page.

Article 4. Public Hearing Agenda

4.1 The agenda for each Commission public hearing shall be prepared by the Department of Planning and Zoning and shall be approved by the Chair prior to public notification.

4.2 Applications shall be placed on the agenda for a public hearing in the order in which they were filed with the Department of Planning and Zoning.

4.3. The agenda may be revised up to 3 days prior to the public hearing. After that time, the chair may propose changes to the agenda at the scheduled meeting, after a vote by the commission.

4.4 The agenda for each commission meeting shall be:

- A. Call to Order
- B. Roll Call
- C. Announcements
- D. Approval of Minutes (if any)
- D. New Violations and Status of Active Violations
- E. Consent Docket.
- F. Old Business (If any)
- G. New Business
- H. Administrative Business (if any)
- I. Other Business

Article 5: Public Hearings on Applications

5.1 Public hearings to dispose of applications for certificate of approval shall be held on the second Tuesday of each month, at 7:00 p.m., in the City Council Chamber on the second floor of the Municipal Building at 160 Duke of Gloucester Street. Public hearings require 7 days advance public notice, which shall include legal advertisement or a listing of the City web page. Advance public notice shall specify the name of the applicant, the address of the structure, and a brief description of the work for which approval is sought. Additionally, the applicant shall post a sign provided by commission staff indicating that a certificate of approval or an amendment to a previously approved certificate of approval is sought and stating the date and time of the hearing on the property at least fifteen days prior to the hearing and shall be removed by the applicant within seven days following the hearing.

5.2 The Chair may schedule special or emergency public hearings. An applicant may request a special or emergency hearing by specifying the good cause. In the case of an applicant's request, good cause exists if some hardship from the undue delay as a result of the regular scheduling or any other matter causing prejudice to the applicant. Special or emergency meetings shall require reasonable advance public notice that may include legal advertisement or a listing of the City web page.

5.3 In advance of a public meeting to dispose of applications, commissioners may individually visit a property and view the existing conditions from the public way.

5.4 In an effort to expedite routine items before the Commission, the Commission hereby establishes a "Consent Docket" procedure as follows:

- (a) All applications which have received the recommendation of approval or approval with minor modifications from the Historic Preservation Division, the Commission's consultants and technical advisors shall be considered eligible for inclusion on the Consent Docket.
- (b) The Chair shall poll the Commission prior to the meeting to seek concurrence of items eligible for the Consent Docket.
- (c) All items thus eligible shall be placed on the Consent Docket by motion of any member of the Commission, and duly seconded.
- (d) The Commission shall then request if there is any public comment on any item the Consent Docket. If any item with comments, questions, or opposition shall automatically be removed from the Consent Docket and heard in regular order.
- (e) Any items remaining on the Consent Docket shall then be voted on by the Commission, after an appropriate motion for approval by any member of the Commission, and duly seconded.

(f) If amendments or conditions are proposed on Consent Docket items, applicants shall agree to amendments or conditions to receive Consent Docket approval.

5.5 At public hearings, the chair shall regulate the course of discussion and may impose reasonable time limits on presentations and discussions. The applicant or their representative is required to attend the hearing at which the application is addressed by the Commission. The applicant and all other interested persons and organizations shall be afforded the opportunity to introduce evidence and present testimony under oath and to present legal argument. Individuals and/or organizations with standing related to a specific application may ask questions of the applicant, staff and any other witnesses presenting testimony. Commissioners may ask questions of any participant in the hearing at any time. The applicant has the burden of proof and shall produce sufficient evidence for the commission to conclude application is in compliance with the Design Guidelines in the Annapolis Historic District Design Manual (most recent edition). If insufficient evidence is presented, the application shall be denied. If conflicting evidence is present, the board shall determine which facts it believes are correct. At public hearings, the order of procedure shall ordinarily be as follows:

(a) The applicant, or the applicant's representative, shall present the application, including such evidence and argument as is necessary to support the application. The Chair shall enter into the record any documents received in relation to the application and poll the Commission regarding site visits, if any, for the record.

(b) The Chair shall admit evidence which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs, give effect to the rules of privilege recognized by the law and may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. The Chair may also impose reasonable limitations on the introduction of evidence.

(c) Applicants may appear at hearings with modified plans. In cases where the modifications are minor, the Commission may accept the change as an amendment to the application. In cases of major change, the modified application shall be continued and become an item for a future month's agenda. The choice shall be made at the meeting at the discretion of the Commission without public debate on the issue.

Minor revisions include but are not limited to additional architectural specification sheets and a change in materials as required by reviewing agencies;

Major revisions include but are not limited to changes in massing, elevations, or changes materials that were not requested by reviewing agencies.

(d) The Chair may then inquire if there are any concerns from the Commission as to completeness of the application as currently in the record. Staff may present arguments for or against a determination of completeness. By majority vote, the Commission shall determine if the application is complete. If the application is determined to be incomplete, a list of required additional material and a date certain for submissions and a

new hearing are set. If this is the initial hearing, the applicant is required to waive the 45 day rule in accordance with Annapolis City Code 21.56.070.C.

(e) The City's Chief of Historic Preservation shall present the staff report. The report includes the Planning and Zoning Department's determination of code compliance, an assessment of the significance of the property based on research and the National Register criteria, and Compliance with the Annapolis Historic District Design Manual (most recent edition) and The Secretary of the Interior's Standards for the Rehabilitation and Treatment of Historic Properties, as well any other professional review pertinent to the application.

(f) Members of the public, including but not limited to representatives of architectural and historical organizations, and of organizations dedicated to historic preservation, shall present their comments. It is not necessary for the public to file written comments in order to give public testimony at the hearing. Repetitious testimony is permitted but not encouraged. In the regular course of a hearing with significant public interest and/or comment, the Chair shall first request comment from proponents of an applicant, then comment from anyone wishing to speak on the application and finally, comment from opponents of an application. Comments submitted in writing will be entered into the record.

(g) Commission members may ask questions both during and after testimony, as appropriate.

(h) If there is a party with standing in opposition to an application, they shall be allowed to ask questions of the applicant, applicant representatives, applicant witnesses, City staff and/or other witnesses under the direction of the Chair. The Chair has the responsibility to ensure that testimony and questions are material and substantive to the application, and to the findings of fact and conclusions of law that the Commission shall determine.

5.6 The chair shall close public testimony and the Commission shall enter into deliberations. During deliberations, the Commission shall give consideration to:

(a) the historic, cultural, archaeological, or architectural significance of the landmark, site, or structure and its relationship to the historic, cultural, archaeological, or architectural significance of the surrounding area;

(b) the relationship of the exterior architectural features of a landmark, site, or structure to the remainder of the landmark, site or structure and to the surrounding area;

(c) the general compatibility of proposed exterior design, scale, proportion, arrangement;

(d) compliance with The Secretary of the Interior's Standards for the Rehabilitation and Treatment of Historic Properties and consistent with the intent and principles of the Annapolis Historic District Design Manual (most recent edition) which is more commonly known as the "HPC Design Guidelines";

(e) any observations made during site visits;

(f) any other factors including aesthetic factors which the Commission deems to be pertinent in accordance with City code section 21.56.060.D.

5.7 If during deliberation, it appears that the application will not be approved as submitted, the Commission may identify modifications which will bring the application into compliance and may recommend a continuation of the application to a future hearing, subject to the agreement of the applicant and forty-five day limitation set forth in the Annapolis City Code 21.56.070.C. If an application is continued, all testimony related to the application is preserved for the record. If it does not appear feasible to amend the application the Commission may allow the applicant voluntarily withdraw the application.

5.8 At the conclusion of all testimony, questioning, and deliberation the Commission shall dispose of the application by a motion to deny approve or approve with modifications. In accordance with City code 21.56.040.C, the event an application is denied, an application which is identical to a rejected application may not be resubmitted within a period of one year after the date of the denial.

5.9 The Chair may deviate from this order of procedure at hearings.

5.10 Unanimous unopposed decisions of the Commission shall be reflected in the minutes as such and are not required to be memorialized in any written decision or opinion.

(a) In cases where the decision is not unanimous, the minutes shall reflect the votes and abstentions of individual members of the Commission.

(b) In the case of disapproval or of approval over public opposition or despite dissent within the Commission, or otherwise in the Chair's discretion, the Chair shall designate a member of the Commission from among the majority to write an opinion within thirty days explaining the factual and legal basis for the Commission's decision, and any such opinion approved by majority vote of those members who heard the application shall be the decision of the Commission for purposes of review.

Article 6. Reconsideration

The intent of this article is to provide relief for applicants after the denial of an application.

6.1 An applicant may request the HPC reconsider their decision of denial of an application for two reasons: assertion of economic hardship resulting from the denial or by invoking the special consideration clause of Section 21.56.060 Section E.

(a) No later than 10 days after the date of the vote to deny the application, an applicant may file a written request for reconsideration of a decision of the HPC. The request shall state fully all grounds for reconsideration and shall be filed with the Department of Planning and Zoning, either personally or by first class mail, postage prepaid. If by mail, the request, to be considered timely, shall be received by the Department of Planning and Zoning within the 10 day period.

(b) An applicant shall, by first class mail, postage prepaid, serve a copy of a request for reconsideration on all persons who were parties at the public hearing on the application. The request for reconsideration shall contain a certificate of service to this effect.

(c) An applicant shall submit all evidence related to the claim of economic hardship or special consideration no later than 45 days after the date of the vote of denial. The applicant shall use the evidentiary check list approved by the HPC as a guide to the information necessary to submit to sustain a claim of economic hardship.

(d) The HPC shall hold a public hearing on a request for reconsideration within 30 days of the submission of all materials related to section 6.1 (c) above. The HPC may question Planning and Zoning staff or the applicant, take testimony, and receive documents into evidence. At this hearing the HPC shall decide if there is sufficient evidence to warrant reconsideration and specifically what portion of the denied application may be reconsidered. The HPC may grant one 30 day extension at the evidentiary hearing to the applicant to gather additional information for submission for reconsideration. If the applicant does not provide sufficient information within the time frame, the request for reconsideration shall be denied.

6.2 If the HPC grants a request for reconsideration, it shall schedule a review only on the matters to be reconsidered at a regularly scheduled public hearing public, within 45 days of the date of the vote to reconsider.

6.3 In addition to general public notice, the Historic Preservation Division staff shall give advance notice of the public hearing to all members of the general public who became parties at the public hearing on the application in accordance with the public notice requirements of public hearings.

6.4 The filing of a request for reconsideration and any action of the HPC thereon, shall not toll the period to note an appeal from the vote on the original application.

Article 7 Recusal and Ex Parte Communication

7.1 Any member of the Commission who has a conflict of interest or the appearance of such a conflict with respect to an application may not be present or in any other way participate during the hearing on the application, nor may such a member participate in any discussions, deliberations, recommendations, or decision-making with other Commission members concerning that application.

7.2 In the event a member of the Commission is precluded from participation by reason of Rule 7.1, he or she shall announce that he or she is subject to recusal, and the minutes shall reflect the announcement and the absence of the member from the hearing. It is not necessary that a member subject to recusal explain the reasons therefore.

7.3 An applicant or any other member of the public who believes there are grounds for recusal of a member, particularly when said grounds may be unknown to the member, shall make a timely suggestion of recusal in writing before the meeting and shall specify the grounds therefore.

7.4 In accordance with the Open meetings Act (Title 3 of the General Provisions Article of the Maryland Code), no ex parte communication may take place among commissioners, members of the public or applicants regarding a pending application. Commissioners may discuss the aspects of the application dealing with completeness and general components of the application, but shall not discuss the merits of the application.

8. Violations

8.1 Any person who violates Section 21.56.120 of the Annapolis City Code, by making an unapproved change to a landmark, site or structure in the historic district, shall be guilty of a municipal infraction under Section 1.20.010-1.20.080 of that code. Each day a violation continues constitutes a separate and repeat offense. The filing of an after the fact permit application accepted by the Historic Preservation Commission within 30 days of the first notice of infraction is a defense to municipal infractions issued thereafter.

8.2 In the case of an unapproved change, the Chief of the Historic Preservation Division shall instruct the Building Inspection office to issue a Notice of Violation letter. Furthermore, the Building Inspection office may issue a citation which includes a fine and an abatement requirement, delivered by any member or agent of the Commission, or by the building inspector, law enforcement officer, or fire marshal. In the case where work has been performed without an application, an after the fact application is required. An after the fact application accepted by the Historic Preservation Division within 30 days of the first notice of violation is a defense to municipal infractions issued thereafter. If the change is clearly out compliance with the guidelines, the application will not be accepted, and citations will continue to be issued until a reviewable application is filed. If no application is accepted, the Chief of Historic Preservation or the planning and zoning director will refer the violation to the Office of Law. The Office of Law shall institute appropriate action to prevent, enjoin, abate, or remove any violation. Appropriate actions include, but are not limited to, requiring the offender to submit a complete after the fact application, in accordance with Article 2 of these Rules of Procedure.

9. Amendments

9.1 This section of the Rules of Procedure is intended to establish guidance to amend these HPC Rules of Procedure.

9.2 These Rules of Procedure shall be amended by a majority vote of all serving members of the HPC at the regular meeting following that at which the proposed change was introduced.

9.3 Changes in the Annapolis City Code that relate to the HPC shall become at the time of their adoption by the Mayor and Aldermen amendments to the Bylaws or Rules of Procedure as may be appropriate.

9.4 The Commission, by unanimous vote of all serving commission members, may vote to waive the requirement under 9.2 that a proposed change shall be introduced at a regular meeting and voted on at the next regular meeting.

As approved by the Historic Preservation Commission 22 October 2020