
Part 4 – Procedural



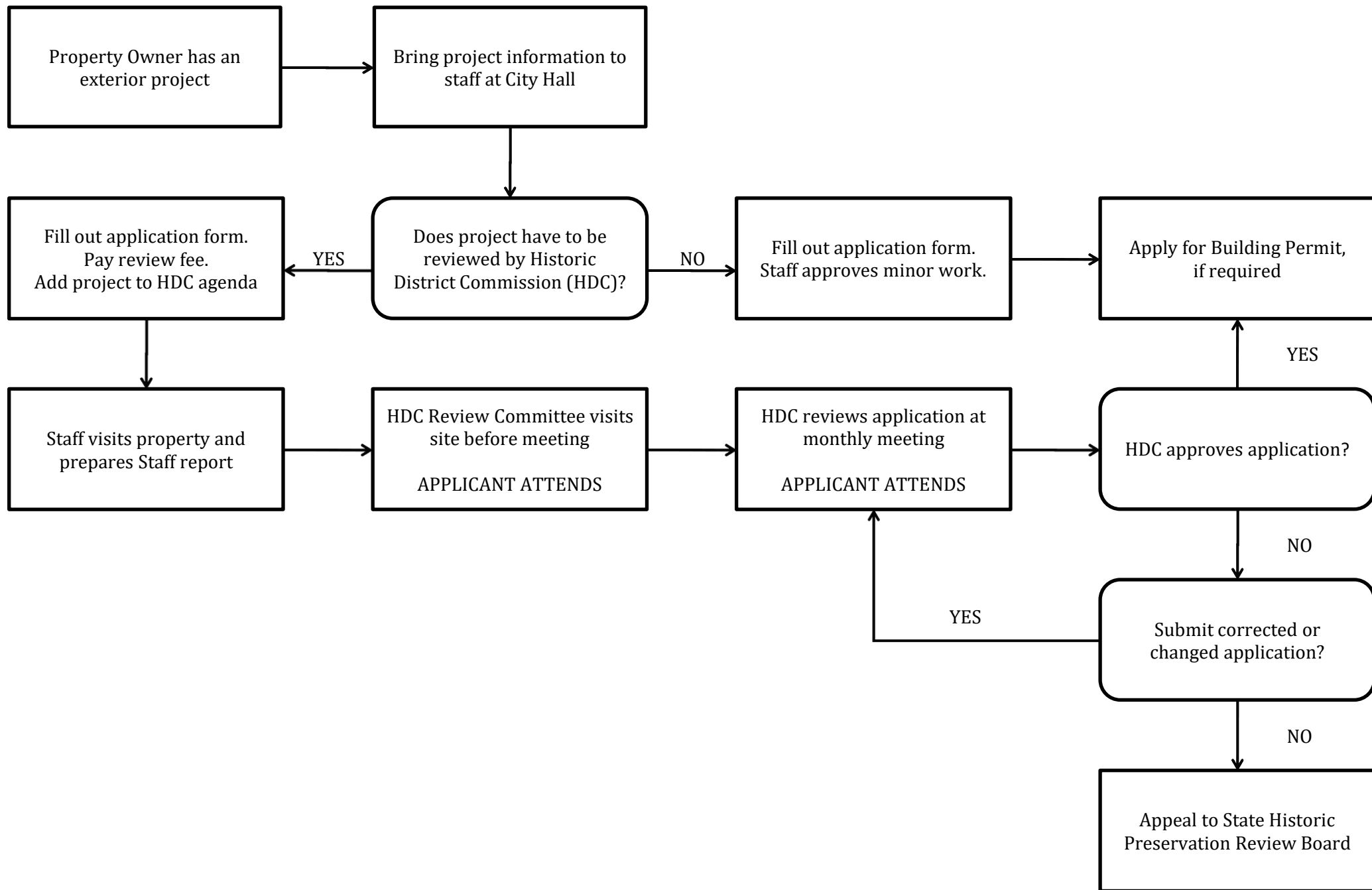
HDC Review Flow Chart

Staff Approval Information

Work Done without Permits

How to Appeal a Commission Decision

Ann Arbor Historic District Commission
Review Process



Ann Arbor Historic District Commission

Staff Approval List

The Ann Arbor Historic District Commission hereby authorizes the Planning and Development Services Manager or their designee to approve the following work items on behalf of the Commission.

- 1) Replacement of **existing windows** that are deteriorated beyond repair per the Guidelines for Window Evaluation, Repair, and Replacement and that match the existing in size, type, location, material and muntin pattern; bare metal finishes, Low "E" reflective or tinted glazing are not permitted unless they match the existing.
- 2) Installation of new **storm windows** and **storm doors** that match the opening size and are not bare metal; that mullions and meeting rails of storm windows match the prime windows; and the design of the storm door is similar in style to the prime door.
- 3) Replacement of **non-original windows or doors**; or windows or doors in non-contributing resources; with new windows or doors that are an accurate restoration using historical, pictorial, and physical documentation, or a new design that is compatible with the openings and historic character of the building.
- 4) Installation of any **awnings** at any opening on the rear elevation of a structure for properties not situated on a corner lot.
- 5) Replacement of **existing awnings** in the same location and dimension.
- 6) Replacement of **existing signage** in the same size, dimension, and location.
- 7) Installation of new **skylights** on non-character defining roof surfaces not visible from the street provided the skylights are flat, do not extend more than 6 inches above the roof surface, are similar to the color of the roof material and cover not more than 10% of the roof surface on which they are located; bare metal finishes, bubble or domed skylights are permitted only on flat or rear-facing roofs.
- 8) Replacement of **roofs** with a material exactly matching the existing top roofing layer or with the original roofing material or a replica of the missing or covered original roofing material.
- 9) Installation of new wood clapboard **siding** or artificial siding that replicates clapboard where the existing siding is artificial and provided the exposed vertical dimension of the new "clapboard" is no more than five inches or within one inch of the missing or covered original; no new material may cover nor require the removal of any original trim or architectural detail such as ornamental shingles, carved brackets, window hoods and the like.
- 10) Removal of **artificial siding** to repair and restore original siding.
- 11) Cleaning of **masonry** provided the application meets the requirements in Preservation Briefs 1: Assessing Cleaning and Water-Repellent Treatments for Historic Masonry Buildings and Preservation Briefs 6: Dangers of Abrasive Cleaning to Historic Buildings.
- 12) Reconstruction of **masonry** to exactly match the existing in color, size, texture, coursing, mortar profile, color, composition, and joint width.
- 13) **Gutter and downspout** replacement with exactly matching design, materials, and placement; or new gutters and downspouts where none currently exist, in a style that is compatible with the historic character of the building.
- 14) The installation of **satellite dishes** or antenna, provided the location is not visible from the street or sidewalk in the front, or if a corner lot, the street or sidewalk on the side.
- 15) Installation of new **handrails** that match the existing balustrade may be added to porch steps, or the replacement of non-original handrails with replicas of documented original handrails, or new compatible handrails.
- 16) Re-construction of existing **fire escapes** in a matching or smaller size.
- 17) The removal of dead, diseased or damaged historic **trees/plantings extant** from the period of significance with a written statement from a professional service or arborist confirming that the historic trees/plantings are dead, diseased, or damaged.
- 18) The replacement of existing on-grade **walkways**, stairways, retaining walls, patios, and driveways in the same location in matching or compatible materials.
- 19) Replacement of **fences** of any kind except that chain link or metal security type fences may not be installed in the front open space or within the side open space on the street side of corner lots.

- 20) Installation of **glass block** in existing basement openings that are not on the front or street facing side elevations provided that the glass block is recessed to the same plane as the window.
- 21) Replacement of concrete **basement walls** provided that the exterior of the portions of the walls above grade are finished in a material matching the original or with a smooth parge coat.
- 22) Replacement of **basement windows** only when the portion of the basement wall containing the window is replaced: the new windows shall be an accurate restoration using historical, pictorial, and physical documentation; or wood or metal-clad wood windows that match the existing in size, type, location, material and muntin pattern.
- 23) Window and door **boarding** provided that the boarding-up is temporary and for the protection of the building; and the boarding is painted to look like windows or a dark color such as black or brown. Boarding used for ventilation techniques allowing air flow into the building should be similarly painted a dark color.
- 24) Installation of **artwork** that is non-permanently attached to a building exterior provided that it measures less than 25 square feet in total area, does not damage or destroy historic materials, does not obscure historic or architectural features, and is not visible from the street or sidewalk.
- 25) Installation of new **fences** provided they meet the requirements of the *Historic District Design Guidelines*.
- 26) Reconstruction of existing **historic porches** or porch elements that are beyond repair, provided the materials and design exactly match the existing materials and design.
- 27) Reconstruction of existing **non-historic porches** to match the existing design or the historic design that is documented using historical, pictorial, or physical documentation, or a new design that is compatible with the historic character of the building.
- 28) Replacement of non-original **garage doors** with new doors that are compatible with the design of the garage and are located within the existing or historic opening.
- 29) Installation of air conditioning, **mechanical equipment**, or associated vents or other work, provided that: the equipment or work is not visible from the street or sidewalk; is finished to blend into the building, where appropriate; and does not destroy historic features.
- 30) Replacement of existing **playground** equipment in public parks.
- 31) Installation of external **lighting on signs**, provided the lighting meets the requirements of the *Historic District Design Guidelines*.
- 32) The replacement of existing **decks** in the same location in a matching or smaller size; or the expansion of decks on non-contributing resources provided the expansion is not greater than 25% of the existing deck area and does not negatively impact historic resources.
- 33) Installation of new **solar panels** on non-character defining roof surfaces not visible from the street, or installation of black-on-black panels on side facing roof surfaces that are visible from the street.
- 34) Installation of compatible windows and doors in **new openings** on non-contributing buildings.
- 35) Installation of new residential **patios** at grade that are constructed of brick, stone, pavers, or similar compatible materials, that do not exceed 150 square feet, and are located at the rear of the building.
- 36) Installation of new metal **chimneys** that do not obscure, destroy, or otherwise compromise original trim or architectural features of the building, that are a dark color or match the roof, and that do not exceed the minimum height and minimum diameter required by state building code, and are not a prominent feature of the roof.
- 37) **Small cell wireless facilities** on existing or new utility poles that do not destroy, distract from, or obscure historic character or architectural features.

Adopted February 8, 2007, Effective April 4, 2007; Amended: June 14, 2007; November 8, 2007; January 14, 2010; May 13, 2010; March 10, 2011; January 12, 2012; October 12, 2017; May 14, 2020; January 12, 2023.



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Planning & Development Services - Planning (734) 794-6265

Community Services Area

MEMORANDUM

To: Historic District Commissioners
From: Jill Thacher, Historic Preservation Coordinator
Date: January 4, 2013
Re: Chapter 103, Section 8:421

To assist in discussions of work done without HDC permits, I've put together a small decision tree to help guide the Commission through the City Code section that deals with such work.

From Ann Arbor City Code, Chapter 103, § 8:421: (emphasis added)

- (3) When work has been done upon a resource without a permit, and **the commission finds that the work does not qualify for a certificate of appropriateness**, the commission may **require an owner to restore the resource to the condition the resource was in before the inappropriate work** or to **modify the work so that it qualifies for a certificate of appropriateness**. If the owner does not comply with the restoration or modification requirement within a reasonable time, the commission may request for the city to seek an order from the circuit court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply or cannot comply with the order of the court, the commission may request for the city to enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a certificate of appropriateness in accordance with the court's order. The costs of the work shall be charged to the owner, and may be levied by the city as a special assessment against the property. When acting pursuant to an order of the circuit court, the city may enter a property for purposes of this section.

1) Does the work that was performed without a valid permit qualify for a certificate of appropriateness?

If yes, propose a motion that includes the appropriate Secretary of the Interior's Standards and Guidelines.

If no, move on to 2 or 3 below.

2) Require the owner to restore the resource to the condition the resource was in before the inappropriate work.

If this is impossible or unfeasible, move on to 3 below.

3) Require the owner to modify the work so that it qualifies for a Certificate of Appropriateness.

This may include partial restoration, repairs, replacement, a combination, or other work.

HOW TO APPEAL A COMMISSION DECISION

When a local historic district commission denies an application for a permit, the applicant may not legally proceed with any exterior work, including demolishing or moving a structure, unless the commission's decision is appealed and is set aside or modified by higher authority.

Michigan's Local Historic Districts Act (1970 PA 169, § 5; MCL 399.205) provides that a person aggrieved by a commission's decision may appeal to the State Historic Preservation Review Board. The Review Board is an agency of the Michigan Department of History, Arts and Libraries. The Board's members have expertise in history-related disciplines, and the Board has authority to affirm, modify or set aside a commission decision. However, before anyone petitions the Board for relief, **every effort should be made to resolve historic preservation issues at the local level**.

INSTRUCTIONS FOR FILING:

To appeal a commission's decision, an aggrieved party should mail a written claim of appeal, in any form or format, to the State Historic Preservation Review Board, Michigan Library and Historical Center, 702 West Kalamazoo Street, P.O. Box 30740, Lansing, Michigan 48909-0348. The appeal may be faxed to 517-335-0348. By law, appeals must be filed **within 60 calendar days** after the applicant has received a written notice of denial or other action of the commission. **A copy of the notice must always accompany the appeal.** In addition, the appeal must clearly state that it is an "appeal" and must also indicate the reason or reasons for reversing the denial. Inquiries may be directed to the Review Board's Executive Secretary, Brian D. Conway, at 517-373-1630.

THE ADMINISTRATIVE HEARING

After a claim of appeal is filed, the Review Board will refer the matter to the State Office of Administrative Hearings and Rules (SOAHR). SOAHR will schedule an administrative hearing and assign an Administrative Law Judge to preside over that proceeding. The hearing represents an opportunity for the petitioner and the commission to present evidence and legal arguments. All parties will be informed of the place, date and time for the hearing by SOAHR. In lieu of a hearing, a petitioner may choose instead to submit his or her evidence and arguments in documentary form. If a hearing has been scheduled and the petitioner subsequently decides not to attend, the petitioner should so inform the Administrative Law Judge prior to the hearing.

Petitioners have the burden of proof at administrative hearings. Thus, petitioners must be prepared to show how the commission has erred and explain why the commission's decision should be modified or set aside.

POSSIBLE ISSUES

Every administrative appeal is unique, and claims of commission error will differ. However, the following are examples of claims of error that have previously been alleged:

1. The historic district commission was arbitrary and capricious.
2. The commission should have determined that the resource was a hazard to public safety.
3. Continuation of the historic resource will deter a major community improvement program.
4. The commission improperly applied the U.S. Secretary of the Interior's Standards for Rehabilitation and the federal Guidelines for Rehabilitating Historic Buildings.
5. Historic resource retention will cause undue financial hardship for the property owner.

Again, appeals should always specify the reasons why the commission's decision is believed to be erroneous.

EVIDENCE

As noted above, appellants have the burden of proof and must prove that alleged error actually occurred. To do this, petitioners typically present evidence at the administrative hearing. Evidence may consist of documentary materials, such as labor estimates and materials price quotes. Appellants may also present sworn testimony from themselves, and from witnesses like licensed contractors who have inspected the historic building and possess knowledge of its condition. Photographs, designs, and drawings, etc., may also be submitted.

Petitioners should begin preparing for their hearings well in advance. In other words, a petitioner should not wait until shortly before the day of hearing to begin collecting evidence. Orderly presentations are helpful to everyone. A party should **bring at least three (3) copies** of each exhibit that he/she intends to offer.

Petitioners **must** present certain evidence in every case. The required evidence consists of:

1. The original (or a copy) of the written notice from the commission denying the petitioner's application to perform work in the historic district.
2. The original (or a copy) of any document verifying the petitioner has a legal interest in the property. This could be a deed, purchase agreement, land contract, or a lease.

LEGAL REPRESENTATION

Petitioners may represent themselves or engage a legal representative during the appeal. An attorney employed by a petitioner should file an appearance with SOAHR. The appearance may be faxed to 517-335-6696.

COMMISSION REPRESENTATIVE

Most commissions send at least one representative to the administrative hearing. Sometimes this representative testifies at the hearing. Also, commissions generally submit relevant documents maintained in their files. Such documents are usually admitted into the official hearing record. The commission's representative, who may be a municipal attorney, will also be expected to submit copies of local historic district ordinances, as well as other pertinent materials such as meeting minutes and local restoration standards and guidelines.

THE DECISION PROCESS

After the hearing, the Administrative Law Judge will prepare a Proposal for Decision for the Review Board's consideration. SOAHR will send a copy of the proposed decision to the petitioner or the petitioner's attorney and to the commission's legal representative. If either party is dissatisfied with any aspect of the proposal, the party may file written exceptions. The Review Board will then consider the proposal, along with any exceptions, at its next regularly scheduled meeting. After reviewing all materials, the Board will issue the Final Decision and Order in the case. Copies will be furnished to the parties and their attorneys. Typically, a Final Decision and Order will be issued within three to four months of the date an appeal is received.

APPEALS OF REVIEW BOARD DECISIONS

A petitioner who is dissatisfied with the Review Board's Final Decision and Order may appeal to circuit court. Appeals must be filed with the court that has jurisdiction over the commission whose decision was appealed to the Board. Court appeals must be filed within 60 days of issuance of the Final Decision and Order.