

# SUBMISSION FOR PERMANENT RULE

<b>1. Rule-Making Agency:</b> North Carolina Historical Commission	
<b>2. Rule citation &amp; name (name not required for repeal):</b> 07 NCAC 04R .0918 "Purpose"	
<b>3. Action:</b> <input checked="" type="checkbox"/> <b>ADOPTION</b> <input type="checkbox"/> <b>AMENDMENT</b> <input type="checkbox"/> <b>REPEAL</b> <input type="checkbox"/> <b>READoption</b>	
<b>4. Rule exempt from RRC review?</b> <input type="checkbox"/> <b>Yes. Cite authority:</b> <input checked="" type="checkbox"/> <b>No</b>	<b>5. Rule automatically subject to legislative review?</b> <input type="checkbox"/> <b>Yes. Cite authority:</b> <input checked="" type="checkbox"/> <b>No</b>
<b>6. Notice for Proposed Rule:</b> <input checked="" type="checkbox"/> <b>Notice Required</b> <b>Notice of Text published on:</b> 8/1/2016, Volume 31, Issue 03, Page 136 <b>Link to Agency notice:</b> <a href="https://www.ncdcr.gov/">https://www.ncdcr.gov/</a> <b>Hearing on:</b> 8/22/2016 <b>Adoption by Agency on:</b> October 11, 2016 <input type="checkbox"/> <b>Notice not required under G.S.:</b> <b>Adoption by Agency on:</b>	
<b>7. Rule establishes or increases a fee? (See G.S. 12-3.1)</b>  <input type="checkbox"/> <b>Yes</b> <b>Agency submitted request for consultation on:</b> <b>Consultation not required. Cite authority:</b>  <input checked="" type="checkbox"/> <b>No</b>	<b>8. Fiscal impact (check all that apply):</b> <input checked="" type="checkbox"/> <b>State funds affected</b> <input type="checkbox"/> <b>Environmental permitting of DOT affected and analysis submitted to Board of Transportation</b> <input checked="" type="checkbox"/> <b>Local funds affected</b> <input checked="" type="checkbox"/> <b>Substantial economic impact (≥\$1,000,000)</b> <input checked="" type="checkbox"/> <b>Approved by OSBM</b> <input type="checkbox"/> <b>No fiscal note required</b>
<b>9. REASON FOR ACTION</b>	
<b>9A. What prompted this action? Check all that apply:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input checked="" type="checkbox"/> <b>Agency</b>  <input type="checkbox"/> <b>Court order / cite:</b>  <input type="checkbox"/> <b>Federal statute / cite:</b>  <input type="checkbox"/> <b>Federal regulation / cite:</b> </div> <div style="width: 45%;"> <input checked="" type="checkbox"/> <b>Legislation enacted by the General Assembly</b>              <b>Cite Session Law:</b> S.L. 2015-241, s. 32-3.(a) - (c).  <input type="checkbox"/> <b>Petition for rule-making</b>  <input type="checkbox"/> <b>Other:</b> </div> </div>	
<b>9B. Explain:</b> <p>Session Law 2015-241, also known as the 2015 Appropriations Act ("Act"), established the Historic Rehabilitation Tax Credit Program ("Program"). S.L. 2015-241, s. 32.3.(a). The Program allows taxpayers to inure a tax credit for: (1) making qualified rehabilitation expenditures or (2) incurring rehabilitation expenses, to certified historic structures. Following enactment of the Program, the Department of Natural and Cultural Resources adopted "temporary rules" to, inter alia, administer the certification processes required under this section. G.S. 150B-21.1(a). The purpose of this rule is to implement permanent rules in accordance with G.S. 150B-21.1(d). Specifically, this rule explains the purpose of Rules 07 NCAC 04R .0918 - .0924, which set forth the procedures for obtaining certifications under the Program.</p>	
<b>10. Rule-making Coordinator:</b> Shawn Middlebrooks <b>Address:</b> 109 East Jones Street Raleigh, North Carolina 27601 <b>Phone:</b> 919-807-7275 <b>E-Mail:</b> shawn.middlebrooks@ncdcr.gov <b>Agency Contact, if any:</b> Ramona Bartos <b>Phone:</b> 919-807-6583 <b>E-Mail:</b> ramona.bartos@ncdcr.gov	<b>11. Signature of Agency Head* or Rule-making Coordinator:</b>  <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <b>*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.</b>  <b>Typed Name:</b> Shawn Middlebrooks <b>Title:</b> Assistant General Counsel
<b>RRC AND OAH USE ONLY</b>	
<b>Action taken:</b>  <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

07 NCAC 04R. 0918 is adopted with changes as published in 31:03 NCR 136 as follows:

**07 NCAC 04R .0918      PURPOSE**

(a) ~~Article 3L of G.S. 105 authorizes a state historic rehabilitation tax credit program for rehabilitation of both income-producing and non income-producing certified historic structures. The purpose of Rules .0918 - .0924, .0925 of this Section set forth the procedures for obtaining certifications for the state historic rehabilitation tax credits for qualifying rehabilitation expenditures and rehabilitation expenses incurred on or after January 1, 2016 pursuant to provided by Article 3L of G.S. 105. These procedures shall be applicable to future and pending Article 3L certification requests except as otherwise provided herein.~~

(b) ~~Pursuant to G.S. 105-129.105(a), a taxpayer who is allowed a federal income tax credit under section 47 of the Internal Revenue Code for making qualified rehabilitation expenditures for an income-producing certified historic structure located in this State is allowed a state tax credit as set forth in Article 3L of G.S. 0105. Federal approval of said rehabilitation is required to receive the Article 3L state tax credit, and Code of Federal Regulations' definitions and procedures are hereby incorporated by reference for state certifications related to income-producing certified historic structures with substitutions for corresponding state officials and entities in lieu of federal counterparts.~~

*History Note:      Authority G.S. 105-129.105; 105-129.106; 105-129.107;*

*Temporary Adoption Eff. January 1, 2016;*

*Temporary adoption expired Eff. October 11,2016;*

*Eff. December 1, 2016.*

## SUBMISSION FOR PERMANENT RULE

<b>1. Rule-Making Agency:</b> North Carolina Historical Commission	
<b>2. Rule citation &amp; name (name not required for repeal):</b> 07 NCAC 04R .0919 "Definitions"	
<b>3. Action:</b> <input checked="" type="checkbox"/> <b>ADOPTION</b> <input type="checkbox"/> <b>AMENDMENT</b> <input type="checkbox"/> <b>REPEAL</b> <input type="checkbox"/> <b>READoption</b>	
<b>4. Rule exempt from RRC review?</b> <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	<b>5. Rule automatically subject to legislative review?</b> <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
<b>6. Notice for Proposed Rule:</b> <input checked="" type="checkbox"/> <b>Notice Required</b> <b>Notice of Text published on:</b> 8/1/2016, Volume 31, Issue 03, Page 136-137 <b>Link to Agency notice:</b> <a href="https://www.ncdcr.gov/">https://www.ncdcr.gov/</a> <b>Hearing on:</b> 8/22/2016 <b>Adoption by Agency on:</b> October 11, 2016 <input type="checkbox"/> <b>Notice not required under G.S.:</b> <b>Adoption by Agency on:</b>	
<b>7. Rule establishes or increases a fee? (See G.S. 12-3.1)</b>  <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority:  <input checked="" type="checkbox"/> No	<b>8. Fiscal impact (check all that apply):</b> <input checked="" type="checkbox"/> State funds affected <input type="checkbox"/> Environmental permitting of DOT affected and analysis submitted to Board of Transportation <input checked="" type="checkbox"/> Local funds affected <input checked="" type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input checked="" type="checkbox"/> Approved by OSBM <input type="checkbox"/> No fiscal note required
<b>9. REASON FOR ACTION</b> <b>9A. What prompted this action? Check all that apply:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input checked="" type="checkbox"/> Agency  <input type="checkbox"/> Court order / cite:  <input type="checkbox"/> Federal statute / cite:  <input type="checkbox"/> Federal regulation / cite:         </div> <div style="width: 45%;"> <input checked="" type="checkbox"/> Legislation enacted by the General Assembly              Cite Session Law: S.L. 2015-241, s. 32-3.(a) - (c).  <input type="checkbox"/> Petition for rule-making  <input type="checkbox"/> Other:         </div> </div> <b>9B. Explain:</b> <p>Session Law 2015-241, also known as the 2015 Appropriations Act ("Act"), established the Historic Rehabilitation Tax Credit Program ("Program"). S.L. 2015-241, s. 32.3.(a). Under Article 3L of G.S. 105, the Program allows taxpayers to inure a tax credit for: (1) making qualified rehabilitation expenditures or (2) incurring rehabilitation expenses, to certified historic structures. The present rule incorporates "Definitions" necessary for carrying out Article 3L of G.S. 105. The definitions contained in Rule .0919 shall apply to Rules .0918 through .0925 of this Section.</p>	
<b>10. Rule-making Coordinator:</b> Shawn Middlebrooks <b>Address:</b> 109 East Jones Street Raleigh, North Carolina 27601 <b>Phone:</b> 919-807-7275 <b>E-Mail:</b> shawn.middlebrooks@ncdcr.gov <b>Agency Contact, if any:</b> Ramona Bartos <b>Phone:</b> 919-807-6583 <b>E-Mail:</b> ramona.bartos@ncdcr.gov	<b>11. Signature of Agency Head* or Rule-making Coordinator:</b>  <hr/> <p><b>*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.</b></p> <p><b>Typed Name:</b> Shawn Middlebrooks  <b>Title:</b> Assistant General Counsel</p>
<b>RRC AND OAH USE ONLY</b>	
<b>Action taken:</b>  <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

07 NCAC 04R. 0919 is adopted with changes as published in 31:03 NCR 136-137 as follows:

### **07 NCAC 04R .0919      DEFINITIONS**

(a) For purposes of Rules .0918 through .0925 of this Section:

- (1) "Certified historic district" is defined in 36 C.F.R. 67.2 and 26 USCS § 47.
- (2) "Certified historic structure" is defined in 36 C.F.R. 67.2 and 26 U.S.C. Section 47, 47 of United States Code, and is synonymous with "certified historic structure" as defined in G.S. 105-129.105(c)(1).
- (3) "Certified rehabilitation" is defined in:
  - A) 36 C.F.R. 67.2 ~~67.2~~, and as further certified by the State Historic Preservation Officer to the North Carolina Department of Revenue for income-producing structures; and
  - (B) G.S. 105-129.106(c)(1) for non-income-producing structures.
- (4) "C.F.R." means the Code of Federal Regulations.
- (5) "Department of the Interior" means the United States Department of the Interior.
- (6) "Discrete property parcel" is defined in G.S. 105-129.106(c)(2).
- (7) "Historic district" is defined in 36 C.F.R. 67.2.
- (8) "Income-producing" refers to a certified historic structure that qualifies a taxpayer for a federal income tax credit under Section 47 of the Internal Revenue Code.
- ~~(8)-(9)~~ (9) "Inspection" is defined in 36 C.F.R. 67.2. For purposes of this definition, "Authorized Representative of the Secretary" exclusively means, in the context of the state historic tax credit program, means a representative of the State Historic Preservation Officer, Officer and/or HPO staff members.
- ~~(9)-(10)~~ (10) "Integrity" means "historic integrity" as defined in NPS publication How to Apply the National Register Criteria for Evaluation: Bulletin 15. How to Apply the National Register Criteria for Evaluation: Bulletin 15 is hereby incorporated by reference, including subsequent amendments and editions. The Historical Commission has copies of the Bulletin available for inspection or it can be accessed online at no charge at <https://www.nps.gov/nr/publications/bulletins/nrb15/>.
- ~~(10)-(11)~~ (11) "National Park Service" (NPS) means the division within the United States Department of the Interior responsible for administering national parks and historic preservation programs.
- ~~(11)-(12)~~ (12) "National Register Historic District" means any historic district listed in the National Register of Historic Places.
- ~~(12)~~ (13) "National Register Nomination" means the documentation for a resource that includes the National Register Nomination Form NPS 10-900 with accompanying continuation sheets, maps, and photographs, prepared in accord with requirements and guidance in the NPS publication How to Complete the National Register Registration Form: Bulletin 16A. 16A and in other NPS technical publications on the subject. How to Complete the National Register Registration Form: Bulletin 16A is hereby incorporated by reference, including subsequent amendments and editions. The

1 Historical Commission has copies of the Bulletin available for inspection or it can be accessed online  
2 at <https://www.nps.gov/nr/publications/bulletins/nrb16a/>.

3 ~~(13)~~(14) "National Register of Historic Places" is defined in 36 C.F.R. 67.2.

4 ~~(15)~~ "Non-income-producing" refers to a certified historic structure that does not qualify a taxpayer for  
5 a federal income tax credit under Section 47 of the Internal Revenue Code.

6 ~~(14)~~(16) "Owner" means a person, partnership, corporation, or public agency holding a fee-simple interest in  
7 a property or any other person or entity recognized by the North Carolina Department of Revenue  
8 for purposes of the applicable tax benefits.

9 ~~(15)~~(17) "Period of significance" is defined in NPS publication How to Complete the National Register  
10 Registration Form: Bulletin 16A. How to Complete the National Register Registration form is  
11 incorporated by reference as provided in Subsection (a)(13) of this Rule.

12 ~~(16)~~(18) "Property" is defined in 36 C.F.R. 67.2.

13 ~~(17)~~(19) "Rehabilitation" is defined in 36 C.F.R. 67.2.

14 ~~(18)~~(20) "Secretary of the Interior" means the Secretary of the United States Department of the Interior or  
15 the designee authorized to carry out ~~his/her~~ his or her responsibilities.

16 ~~(19)~~(21) "Standards for Rehabilitation" means the Secretary of the Interior's "Standards for Rehabilitation"  
17 as cited in the Code of Federal Regulations, 36 C.F.R. 67.

18 ~~(20)~~(22) "State Historic Preservation Office (HPO)" means the section within the North Carolina Office of  
19 Archives, History, and Parks responsible for administering historic preservation programs.

20 ~~(21)~~(23) "State Historic Preservation Officer (SHPO)" is defined in G.S. 105-129.105(c)(7) for income-  
21 producing rehabilitation projects, and G.S. 105-129.106(c)(6) for non-income-producing  
22 rehabilitation projects.

23 ~~(22)~~(24) "State-certified historic structure" is defined in G.S. 105-129.106(c)(5).

24 ~~(23)~~(25) "Structure" means "building" as defined by 36 C.F.R. 60.3(a), and includes ~~but is not limited to~~  
25 houses, barns, churches, hotels, warehouses, and mills. ~~However, objects~~ Objects and sites as  
26 defined in 36 C.F.R. 60.3(j) and (l) ~~do~~ shall not qualify as structures.

27 (b) Whenever reference is made to the Code of Federal Regulations in this Section, the definition in the Code of  
28 Federal Regulations shall apply unless specifically stated otherwise in a particular rule.

29

30 *History Note: Authority G.S. 105-129.105; 105-129.106; 105-129.107; 121-4(13); 121-8;*  
31 *Temporary Adoption Eff. January 1, 2016;*  
32 *Temporary adoption expired Eff. October 11, 2016;*  
33 *Eff. December 1, 2016.*

# SUBMISSION FOR PERMANENT RULE

<b>1. Rule-Making Agency:</b> North Carolina Historical Commission	
<b>2. Rule citation &amp; name (name not required for repeal):</b> 07 NCAC 04R .0920 "Applications"	
<b>3. Action:</b> <input checked="" type="checkbox"/> <b>ADOPTION</b> <input type="checkbox"/> <b>AMENDMENT</b> <input type="checkbox"/> <b>REPEAL</b> <input type="checkbox"/> <b>READOPTION</b>	
<b>4. Rule exempt from RRC review?</b> <input type="checkbox"/> <b>Yes. Cite authority:</b> <input checked="" type="checkbox"/> <b>No</b>	<b>5. Rule automatically subject to legislative review?</b> <input type="checkbox"/> <b>Yes. Cite authority:</b> <input checked="" type="checkbox"/> <b>No</b>
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<b>7. Rule establishes or increases a fee? (See G.S. 12-3.1)</b>  <input type="checkbox"/> <b>Yes</b> <b>Agency submitted request for consultation on:</b> <b>Consultation not required. Cite authority:</b>  <input checked="" type="checkbox"/> <b>No</b>	<b>8. Fiscal impact (check all that apply):</b> <input checked="" type="checkbox"/> <b>State funds affected</b> <input type="checkbox"/> <b>Environmental permitting of DOT affected and analysis submitted to Board of Transportation</b> <input checked="" type="checkbox"/> <b>Local funds affected</b> <input checked="" type="checkbox"/> <b>Substantial economic impact (≥\$1,000,000)</b> <input checked="" type="checkbox"/> <b>Approved by OSBM</b> <input type="checkbox"/> <b>No fiscal note required</b>
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<b>9B. Explain:</b> 07 NCAC 04R .0920 implements functions of Article 3L of G.S. 105. and purports to explain the application process under the Historic Tax Credit Program. Subsection (a) identifies who may apply to receive a qualified rehabilitation tax credit under the Program. Subsection (b) informs applicants where to acquire application materials and how to apply for available tax relief under the Program. Subsection (c) informs applicants where to submit requests for certifications and approvals for proposed rehabilitation projects. Subsection (d) explains that incomplete applications will be placed on hold until such time as all defects are cured, not to exceed 30 days. Subsection (e) summarizes (i) the process to which applicants will receive approvals and amendments under the Program and (ii) the process for resolving discrepancies contained within an applicant's submission. Subsection (f) incorporates 36 CFR 67.3(b)(7) by reference as it pertains to State income-producing historic tax credit project.	
<b>10. Rule-making Coordinator:</b> Shawn Middlebrooks <b>Address:</b> 109 East Jones Street Raleigh, North Carolina 27601 <b>Phone:</b> 919-807-7275 <b>E-Mail:</b> shawn.middlebrooks@ncdcr.gov <b>Agency Contact, if any:</b> Ramona Bartos <b>Phone:</b> 919-807-6583 <b>E-Mail:</b> ramona.bartos@ncdcr.gov	<b>11. Signature of Agency Head* or Rule-making Coordinator:</b>  <hr/> <b>*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.</b>  <b>Typed Name:</b> Shawn Middlebrooks <b>Title:</b> Assistant General Counsel
<b>RRC AND OAH USE ONLY</b>	
<b>Action taken:</b>  <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

07 NCAC 04R. 0920 is adopted with changes as published in 31:03 NCR 137 as follows:

### **07 NCAC 04R .0920      APPLICATIONS**

(a) ~~Who may apply. An owner, or a person with the owner's consent in accordance with 36 CFR 67.3(a)(1), (4), and (5), (5) are incorporated by reference to establish who may apply for a state historic tax credit. credit under Article 3L of G.S. 105. An applicant may obtain a preliminary and non-binding determination of a property's historic significance within a National Register or certified historic district prior to undertaking a rehabilitation project by submitting a written request to the HPO.~~ Tax credits for rehabilitating income-producing historic structures shall only be available to applicants who qualify for a federal historic rehabilitation tax credit in accordance with 36 CFR 67 and Rules .0901-.0908 of this Section. Tax credits for rehabilitating non-income-producing historic structures shall not be conditioned on qualification for the federal historic rehabilitation tax credits.

(b) ~~How to apply. Applications for certifications of proposed rehabilitation, historic significance, and completed rehabilitation as set forth by Rules .0921 and .0923 of this Section shall be submitted on the State's Historic Preservation Certification Application, available upon request from the HPO. Two copies of the application and supporting documentation, including photographs and plans are required. Application forms are available upon request from the HPO. Applicants shall include the following information and documentation in Part A of their application:~~

(1) Name and address of the property;

(2) Whether the property is income-producing or non-income-producing;

(3) Whether the property is listed on the National Register of Historic Places or located within a National Register District or a Certified Local Historic District;

(4) Date of building construction;

(5) Estimated rehabilitation expenses;

(6) Use of building prior to rehabilitation and proposed use after rehabilitation;

(7) Floor area before and after rehabilitation;

(8) Estimated rehabilitation start and end dates;

(9) Owner name and contact information

(10) If different from the owner, the name and contact information of a person who is available to answer questions related to the rehabilitation project;

(11) A description of the rehabilitation work;

(12) Photographs of the structure and its surroundings before rehabilitation, documenting both interior and exterior features along with a description of each photograph;

(13) Drawings or sketches of proposed work; and

(14) Floor plans.

(c) Applicants may amend their applications at any time after submission by providing the following:

(1) Name and address of the property;

(2) A description of the original proposed rehabilitation plan; and

(3) A description of the amended rehabilitation plan.

(d) Upon completion of a rehabilitation project, an applicant shall submit Part B of the application which shall contain the following information and documentation:

(1) Name and address of the property;

(2) Rehabilitation start and end dates;

(3) Rehabilitation expenses;

(4) Photographs of the structure and its surroundings after the rehabilitation, documenting both interior and exterior features along with a description of each photograph; and

(5) If applicable, a fee as provided in Rule .0925 of this Subchapter.

(e) Upon completion of a non-income-producing rehabilitation project on a property not listed in the National Register of Historic Places as an individual property, an applicant shall provide the following in addition to the requirements in Subsection (d) of this Rule:

(1) Name of the National Register Historic District or Certified Local Historic District in which the property is located;

(2) Date of construction;

(3) Dates of alterations to the structure;

(4) Whether the building has been moved from its original location;

(5) Description of physical appearance of the structure;

(6) Summary of how the building contributes to the significance of the historic district;

(7) Map of the historic district; and

(8) If available, a copy of Section 7 of the National Register of Historic Districts nomination form. The nomination forms for most properties are available on the HPO's website at <http://hpo.ncdcr.gov/NR-PDFs.html>.

~~(f) (e) Submissions. Requests for certifications and approvals of proposed rehabilitation projects~~ Applicants shall submit two copies of the application along with required documentation via mail addressed to ~~shall be mailed to the HPO at the following address: Attention: Tax Credit Coordinator, State Historic Preservation Office, 4617 Mail Service Center, Raleigh, NC 27699-4617.~~

~~(g) (d) Incomplete application. Where documentation as defined in Rules .0921 and .0923 of this Section is not provided, the owner~~ If the application is incomplete in accordance with this Rule, the applicant will be notified in writing of the information necessary to complete the review. The application shall be placed on hold pending the receipt of complete information. If complete information is not received within 30 days from the date of the request to the owner, applicant, the application shall be returned to the owner due to insufficient documentation.

~~(h) (e) Approvals. Approval of applications and any amendments shall be conveyed to the applicant owner only in writing by the SHPO or his or her duly authorized representative. Decisions with respect to certifications~~ Certification decisions shall be made on the basis of the descriptions contained in the application in accordance with the applicable Rules of this Section. and other documentation as defined in Rule .0923(a)(1) of this Section. ~~In the event of any discrepancy between the application and other supplementary material submitted with it (such as architectural plans,~~



1 drawings, specifications, etc.), the applicant shall ~~be requested to~~ resolve the discrepancy in writing. In the event the  
2 discrepancy is not resolved, the description in the application shall take precedence.

3 ~~(i) (f) 36 CFR 67.3(b)(7) is incorporated by reference for State income producing historic tax credit projects.~~ Reviews  
4 of State historic tax credit projects shall ~~will~~ not be undertaken if the owner has objected to the listing of the property  
5 in the National Register of Historic Places.

6  
7 *History Note: Authority G.S. 105-129.105; 105-129.106; 105-129.107;*

8 *Temporary Adoption Eff. January 1, 2016;*

9 *Temporary adoption expired Eff. October 11, 2016;*

10 *Eff. December 1, 2016.*

# SUBMISSION FOR PERMANENT RULE

<b>1. Rule-Making Agency:</b> North Carolina Historical Commission	
<b>2. Rule citation &amp; name (name not required for repeal):</b> 07 NCAC 04R .0921 "Certifications of Historic Significance"	
<b>3. Action:</b> <input checked="" type="checkbox"/> <b>ADOPTION</b> <input type="checkbox"/> <b>AMENDMENT</b> <input type="checkbox"/> <b>REPEAL</b> <input type="checkbox"/> <b>READoption</b>	
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<b>9. REASON FOR ACTION</b>	
<b>9A. What prompted this action? Check all that apply:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input checked="" type="checkbox"/> <b>Agency</b>  <input type="checkbox"/> <b>Court order / cite:</b>  <input type="checkbox"/> <b>Federal statute / cite:</b>  <input type="checkbox"/> <b>Federal regulation / cite:</b> </div> <div style="width: 45%;"> <input checked="" type="checkbox"/> <b>Legislation enacted by the General Assembly</b>            <b>Cite Session Law:</b> S.L. 2015-241, s. 32-3.(a) - (c).  <input type="checkbox"/> <b>Petition for rule-making</b>  <input checked="" type="checkbox"/> <b>Other:</b> </div> </div>	
<b>9B. Explain:</b> 07 NCAC 04R .0921 interprets and implements Article 3L of G.S. 105. Section (a) incorporates 36 CFR 67.4(a) concerning an applicant's request for certification of a particular property as historically significant. Subsection (b) incorporates 36 CFR 67.4(c) concerning determinations of historical significance as it pertains to properties located within historic districts. Subsection (c) incorporates 36 CFR 6.4(d)(2) and (e) for historically functionally related structures and stipulates that any reference to "Secretary" in these incorporated CFR sections shall mean State Historic Preservation Officer ("SHPO"). Subsection (d) informs applicants of the procedures they must follow in order to move a structure as part of a rehabilitation project. Subsection (e) stipulates that the standards in Rule .0922 will be used to evaluate the historic significance of properties within historic districts. Subsection (f) explains that owners will receive written notification following a determination that a property is historically significant.	
<b>10. Rule-making Coordinator:</b> Shawn Middlebrooks <b>Address:</b> 109 East Jones Street Raleigh, North Carolina 27601 <b>Phone:</b> 919-807-7275 <b>E-Mail:</b> shawn.middlebrooks@ncdcr.gov <b>Agency Contact, if any:</b> Ramona Bartos <b>Phone:</b> 919-807-6583 <b>E-Mail:</b> ramona.bartos@ncdcr.gov	<b>11. Signature of Agency Head* or Rule-making Coordinator:</b>  <hr/> <b>*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.</b>  <b>Typed Name:</b> Shawn Middlebrooks <b>Title:</b> Assistant General Counsel
<b>RRC AND OAH USE ONLY</b>	
<b>Action taken:</b>  <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

07 NCAC 04R. 0921 is adopted with changes as published in 31:03 NCR 137 as follows:

**07 NCAC 04R .0921 CERTIFICATIONS OF HISTORIC SIGNIFICANCE**

(a) ~~Applicant request for certification of historic significance. Part A of applications provided in accordance with Rule .0920 of this Section shall be evaluated by the SHPO and the HPO to determine if the property qualifies for a certification of historic significance. In accordance with 36 C.F.R. 67.4(a) 67.4(a), a property shall qualify for a certification of historic significance if it meets one of the following requirements:~~

(1) ~~The individual property is located on the National Register of Historic Places in accordance with 54 U.S.C. Chapter 3021. Income-producing properties not listed on the National Register shall be considered if they meet the criteria in 36 C.F.R. 67.4. Non-income-producing properties must be listed on the National Register prior to the issuance of a certification of historic significance. A list of North Carolina properties on the National Register of Historic Places is available at <http://www.hpo.ncdcr.gov/NR-PDFs.html>; or is incorporated by reference for an applicant's request to the SHPO for certifications of historic significance. The owner may contact the HPO to determine whether or not a property is already individually listed in the National Register of Historic Places or located within a National Register or certified historic district.~~

(2) ~~The property is a historically significant property located within a National Register District or a Certified Local Historic District.~~

~~(b) Determination of historic significance. 36 C.F.R. 67.4(e) is incorporated by reference for determinations of historic significance in the case of a property located within the boundaries of a historic district and the owner wishes to determine if the property is a certified historic structure or a preliminary determination of significance under Rule .0920(a) of this Section.~~

~~(b) (e) Historically functionally related structures. Certifications of historic significance for properties containing more than one structure shall be reviewed in accordance with 36 C.F.R. 67.4(d)(2) and (e). (e) are incorporated by reference for historically functionally related structures, and references in these cited C.F.R. sections to the "Secretary" shall mean "SHPO".~~

~~(c) (d) Moved structures. If a structure is to be moved as part of a rehabilitation for which certification is sought, the owner must shall follow the procedures outlined in 36 C.F.R. 60 and 36 C.F.R. 67.4(h), or risk denial of a certification of historic significance.~~

~~(e) Contributing properties. Properties within historic districts shall be evaluated to determine if they contribute to the historic significance of the district by application of the standards set forth in Rule .0922 of this Section.~~

~~(d) (f) Once the significance of a property located within a National Register or certified historic district has been determined by the SHPO, written notification shall be sent to the owner. The SHPO shall send written notification to the applicant issuing a certification of historic significance or denying the application in accordance with this Rule and Rule .0922 of this Section.~~

*History Note: Authority G.S. 105-129.105; 105-129.106; 105-129.107;*

- 1                    *Temporary Adoption Eff. January 1, 2016;*
- 2                    *Temporary adoption expired Eff. October 11, 2016;*
- 3                    *Eff. December 1, 2016.*

## SUBMISSION FOR PERMANENT RULE

<b>1. Rule-Making Agency:</b> North Carolina Historical Commission	
<b>2. Rule citation &amp; name (name not required for repeal):</b> 07 NCAC 04R .0922 "Standards for Evaluating Significance within National Register of Certified Historic Districts"	
<b>3. Action:</b> <input checked="" type="checkbox"/> <b>ADOPTION</b> <input type="checkbox"/> <b>AMENDMENT</b> <input type="checkbox"/> <b>REPEAL</b> <input type="checkbox"/> <b>READoption</b>	
<b>4. Rule exempt from RRC review?</b> <input type="checkbox"/> <b>Yes. Cite authority:</b> <input checked="" type="checkbox"/> <b>No</b>	<b>5. Rule automatically subject to legislative review?</b> <input type="checkbox"/> <b>Yes. Cite authority:</b> <input checked="" type="checkbox"/> <b>No</b>
<b>6. Notice for Proposed Rule:</b> <input checked="" type="checkbox"/> <b>Notice Required</b> <b>Notice of Text published on:</b> 8/1/2016, Volume 31, Issue 03, Page 137 <b>Link to Agency notice:</b> <a href="https://www.ncdcr.gov/">https://www.ncdcr.gov/</a> <b>Hearing on:</b> 8/22/2016 <b>Adoption by Agency on:</b> October 11, 2016 <input type="checkbox"/> <b>Notice not required under G.S.:</b> <b>Adoption by Agency on:</b>	
<b>7. Rule establishes or increases a fee? (See G.S. 12-3.1)</b>  <input type="checkbox"/> <b>Yes</b> <b>Agency submitted request for consultation on:</b> <b>Consultation not required. Cite authority:</b>  <input checked="" type="checkbox"/> <b>No</b>	<b>8. Fiscal impact (check all that apply):</b> <input checked="" type="checkbox"/> <b>State funds affected</b> <input type="checkbox"/> <b>Environmental permitting of DOT affected and analysis submitted to Board of Transportation</b> <input checked="" type="checkbox"/> <b>Local funds affected</b> <input checked="" type="checkbox"/> <b>Substantial economic impact (≥\$1,000,000)</b> <input checked="" type="checkbox"/> <b>Approved by OSBM</b> <input type="checkbox"/> <b>No fiscal note required</b>
<p style="text-align: center;"><b>9. REASON FOR ACTION</b></p> <b>9A. What prompted this action? Check all that apply:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input checked="" type="checkbox"/> <b>Agency</b>  <input type="checkbox"/> <b>Court order / cite:</b>  <input type="checkbox"/> <b>Federal statute / cite:</b>  <input type="checkbox"/> <b>Federal regulation / cite:</b> </div> <div style="width: 45%;"> <input checked="" type="checkbox"/> <b>Legislation enacted by the General Assembly</b>              <b>Cite Session Law:</b> S.L. 2015-241, s. 32-3.(a) - (c).  <input type="checkbox"/> <b>Petition for rule-making</b>  <input type="checkbox"/> <b>Other:</b> </div> </div> <b>9B. Explain:</b> 07 NCAC 04R .0922 incorporates 36 CFR 67.5(a) to evaluate the significance of properties on the National Registry and certified historic districts. Subsection (a) specifically denotes that where "Secretary" is referenced in cited CFR sections, it shall mean "SHPO". Subsection (b) instructs owners to remove non-historic material that obscures the facade of properties undergoing rehabilitation for the purpose of determining significance in accordance with 36 CFR 67.5(e). Subsection (c) requires the amendment of certification reports when a property is located on the National Registry or certified historic district, but outside the district's period of significance.	
<b>10. Rule-making Coordinator:</b> Shawn Middlebrooks <b>Address:</b> 109 East Jones Street Raleigh, North Carolina 27601 <b>Phone:</b> 919-807-7275 <b>E-Mail:</b> shawn.middlebrooks@ncdcr.gov <b>Agency Contact, if any:</b> Ramona Bartos <b>Phone:</b> 919-807-6583 <b>E-Mail:</b> ramona.bartos@ncdcr.gov	<b>11. Signature of Agency Head* or Rule-making Coordinator:</b>  <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <b>*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.</b>  <b>Typed Name:</b> Shawn Middlebrooks <b>Title:</b> Assistant General Counsel
<b>RRC AND OAH USE ONLY</b>	
<b>Action taken:</b>  <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

07 NCAC 04R. 0922 is adopted with changes as published in 31:03 NCR 137 as follows:

**07 NCAC 04R .0922      STANDARDS FOR EVALUATING SIGNIFICANCE WITHIN NATIONAL REGISTER OR CERTIFIED HISTORIC DISTRICTS**

(a) A property shall be determined to be historically significant by the SHPO if it meets one of the following requirements:

(1) The property is located within a National Register Historic District as provided in 36 C.F.R. 60 and contributes to the historical significance of the district as provided in 36 C.F.R. 67.5 by adding to the district's sense of time, place, and historical development. 67.5(a) is incorporated by reference to evaluate significance within National Register or certified historic districts, and references in these References in the cited C.F.R. sections to the "Secretary" shall mean "SHPO". Structures that contribute to the historic significance of a district are certified historic structures. A list of the National Register Historic Districts in North Carolina is available at <http://www.hpo.ncdcr.gov/NR-PDFs.html>; or

(2) The property is located within a Certified Local Historic District as provided in G.S. 160A, Article 19, Part 3C and contributes to the historical significance of the district by the standards set forth in 36 C.F.R. 67.5 by adding to the district's sense of time, place, and historical development. The local historic district shall also be certified as a Registered Historic District by the Secretary of the Interior as provided in 36 C.F.R. 67.2.

~~(b) If non historic surface material obscures a facade, the owner shall remove the surface material as part of the rehabilitation so that a determination of significance in accord with 36 C.F.R. 67.5(e), can be made. If the previously obscured facade has retained historic integrity and the property contributes to the historic district in accord with the NPS publication How to Apply the National Register Criteria for Evaluation: Bullet 15, it will be deemed a certified historic structure.~~

~~(c) (b) If a property is located in a National Register Historic District or Certified Local Historic District, certified historic district but outside the district's time period of significance, the National Register nomination or certification report for the time period associated with the historic district shall must be amended in accord with National Register amended amendment procedures set forth in NPS publication How to Complete the National Register Registration Form: Bullet Bulletin 16A to expand the time period of significance before a request for final certification is submitted to the SHPO. Bulletin 16A is incorporated by reference in Rule .0919(a)(13) of this Section.~~

*History Note:      Authority G.S. 105-129.105; 105-129.106; 105-129.107;  
Temporary Adoption Eff. January 1, 2016;  
Temporary adoption expired Eff. October 11, 2016;  
Eff. December 1, 2016.*

# SUBMISSION FOR PERMANENT RULE

<b>1. Rule-Making Agency:</b> North Carolina Historical Commission	
<b>2. Rule citation &amp; name (name not required for repeal):</b> 07 NCAC 04R .0923 "Certification of Rehabilitation"	
<b>3. Action:</b> <input checked="" type="checkbox"/> <b>ADOPTION</b> <input type="checkbox"/> <b>AMENDMENT</b> <input type="checkbox"/> <b>REPEAL</b> <input type="checkbox"/> <b>READOPTION</b>	
<b>4. Rule exempt from RRC review?</b> <input type="checkbox"/> <b>Yes. Cite authority:</b> <input checked="" type="checkbox"/> <b>No</b>	<b>5. Rule automatically subject to legislative review?</b> <input type="checkbox"/> <b>Yes. Cite authority:</b> <input checked="" type="checkbox"/> <b>No</b>
<b>6. Notice for Proposed Rule:</b> <input checked="" type="checkbox"/> <b>Notice Required</b> <b>Notice of Text published on:</b> 8/1/2016, Volume 31, Issue 03, Page 137 - 138 <b>Link to Agency notice:</b> <a href="https://www.ncdcr.gov/">https://www.ncdcr.gov/</a> <b>Hearing on:</b> 8/22/2016 <b>Adoption by Agency on:</b> October 11, 2016 <input type="checkbox"/> <b>Notice not required under G.S.:</b> <b>Adoption by Agency on:</b>	
<b>7. Rule establishes or increases a fee? (See G.S. 12-3.1)</b>  <input type="checkbox"/> <b>Yes</b> <b>Agency submitted request for consultation on:</b> <b>Consultation not required. Cite authority:</b>  <input checked="" type="checkbox"/> <b>No</b>	<b>8. Fiscal impact (check all that apply):</b> <input checked="" type="checkbox"/> <b>State funds affected</b> <input type="checkbox"/> <b>Environmental permitting of DOT affected and analysis submitted to Board of Transportation</b> <input checked="" type="checkbox"/> <b>Local funds affected</b> <input checked="" type="checkbox"/> <b>Substantial economic impact (≥\$1,000,000)</b> <input checked="" type="checkbox"/> <b>Approved by OSBM</b> <input type="checkbox"/> <b>No fiscal note required</b>
<b>9. REASON FOR ACTION</b>	
<b>9A. What prompted this action? Check all that apply:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input checked="" type="checkbox"/> <b>Agency</b>  <input type="checkbox"/> <b>Court order / cite:</b>  <input type="checkbox"/> <b>Federal statute / cite:</b>  <input type="checkbox"/> <b>Federal regulation / cite:</b> </div> <div style="width: 45%;"> <input checked="" type="checkbox"/> <b>Legislation enacted by the General Assembly</b>              <b>Cite Session Law:</b> S.L. 2015-241, s. 32-3.(a) - (c).  <input type="checkbox"/> <b>Petition for rule-making</b>  <input type="checkbox"/> <b>Other:</b> </div> </div>	
<b>9B. Explain:</b> <p>Pursuant to Article 3L of G.S. 105, 07 NCAC 04R .0923 lays out the procedures for certifying State rehabilitation projects under the Program. Under subsection (a), owners are required to submit an application to initiate the certification process for a rehabilitation project. Subsection (b) identifies the components of a rehabilitation project that must be completed in order to receive certification. Subsection (c) details the obligations of the SHPO to determine if a project meets "Standards for Rehabilitation" and to inform the owner if there are revisions necessary to bring the project into compliance. Subsection (d) instructs owners to notify the SHPO of any changes to an approved project plan, and informs the SHPO to notify the owner whether the revised plans comply with Program standards. Subsection (e) authorizes the SHPO to conduct on-site inspections to confirm the work meets "Standards for Rehabilitation". Subsection (f) instructs the SHPO to notify the owner by letter if a project fails to meet "Standards for Rehabilitation".</p>	
<b>10. Rule-making Coordinator:</b> Shawn Middlebrooks <b>Address:</b> 109 East Jones Street Raleigh, North Carolina 27601 <b>Phone:</b> 919-807-7275 <b>E-Mail:</b> shawn.middlebrooks@ncdcr.gov <b>Agency Contact, if any:</b> Ramona Bartos <b>Phone:</b> 919-807-6583 <b>E-Mail:</b> ramona.bartos@ncdcr.gov	<b>11. Signature of Agency Head* or Rule-making Coordinator:</b>  <hr/> <b>*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.</b>  <b>Typed Name:</b> Shawn Middlebrooks <b>Title:</b> Assistant General Counsel
<b>RRC AND OAH USE ONLY</b>	
<b>Action taken:</b>  <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

07 NCAC 04R. 0923 is adopted with changes as published in 31:03 NCR 137-138 as follows:

**07 NCAC 04R .0923      CERTIFICATIONS OF REHABILITATION**

(a) ~~Owners seeking to have their State rehabilitation project certified as meeting the Standards for Rehabilitation shall comply with the procedures below.~~ A taxpayer shall obtain a certification of rehabilitation to claim a tax credit for rehabilitating an income-producing historic structure or a non-income producing historic structure. Applicants seeking certifications of rehabilitation shall submit an application in accordance with Rule .0920 of this Section.

(1) ~~To initiate review of a rehabilitation project for certification purposes, an owner shall submit an application to the SHPO. Applications are available upon request from the HPO. Information and documentation as set forth in 36 C.F.R. 67.6(a)(1) shall accompany the application. Substituting a State form for the federal Part 2 of the Historic Preservation Certification Application, 36 C.F.R. 67.6(a)(1) is otherwise incorporated by reference and applies. Submission of Part A of the application initiates review of a rehabilitation project. Upon receipt of a completed Part A application, the SHPO shall determine if the project meets the "Standards for Rehabilitation" as outlined in Rule .0924 of this Section. If the proposed project does not meet the Standards for Rehabilitation, the SHPO shall notify the applicant in writing of a way to bring the proposed project into compliance with the Standards of Rehabilitation.~~

(2) ~~A project does not become a certified rehabilitation until it is completed by the owner and certified by the SHPO. Substituting State forms for the NPS Part 2 of the Historic Preservation Certification Application and NPS Request for Certification of Completed Work, 36 C.F.R. 67.6(a)(2) is otherwise incorporated by reference and applies. Upon completion of a rehabilitation project and submission of Part B of the application in accordance with Rule .0920 of this Section, the SHPO shall review the completed project to determine if it complies with the Standards for Rehabilitation in accordance with Rule .0924 of this Section.~~

(3) If the project obtained a certification of historical significance and meets the Standards for Rehabilitation upon completion, then the SHPO shall issue a certification of rehabilitation.

(b) ~~A rehabilitation project for certification purposes encompasses~~ shall encompass all work on the interior and exterior of the certified historic structure(s) and its site and environment, including environment as determined by the SHPO, as well as related demolition, new construction or rehabilitation work that affects the historic qualities, integrity or landscape features, and environment of the certified historic structure(s). More specific considerations in this regard are set forth in 36 C.F.R. 67.2 and consistent with the standards set forth in 36 C.F.R. 67.6(b)(1) through (7), (7), and incorporated by reference, and references For purposes of this Rule, references in these cited C.F.R. sections to the "Secretary" shall mean "SHPO", and to "Internal Revenue Service" shall mean "Department of Revenue". An owner undertaking a rehabilitation project shall not be held responsible for prior work not part of the current project and undertaken prior to January 1, 2016. For certification purposes, the SHPO shall only consider work related to the rehabilitation project described in the application.



1 ~~(c) Upon receipt of a complete application describing the rehabilitation project, the SHPO shall determine if the~~  
2 ~~project meets the "Standards for Rehabilitation." If the proposed project does not meet the "Standards for~~  
3 ~~Rehabilitation," the owner shall be advised of that fact in writing and, where possible, shall be advised of necessary~~  
4 ~~revisions, in the form of conditions that will bring the proposed rehabilitation project into compliance with the~~  
5 ~~Standards.~~

6 ~~(d)~~ (c) Once a proposed project has been approved, changes in the work as described in the application ~~must~~ shall be  
7 brought to the attention of the SHPO ~~by written statement in writing~~ to ensure continued conformance to the Standards  
8 ~~of Rehabilitation.~~ The SHPO shall notify the ~~owner~~ applicant in writing whether the revised project continues to meet  
9 the Standards. ~~Oral approvals of revisions are not authorized or valid.~~

10 ~~(e)~~ (d) To facilitate project review, the SHPO, by and through HPO staff, reserves the right to conduct on-site  
11 inspections of completed or pending projects to confirm matters represented in applications, to review any alterations,  
12 and to determine if the work meets the "Standards for Rehabilitation." The SHPO shall determine which projects to  
13 inspect based on Parts A and B of the application as provided in Rule .0920 of this Section and the applicable rules,  
14 statutes, and federal regulations..

15 (f) If a completed rehabilitation project does not meet the "Standards for Rehabilitation," ~~an explanatory letter from~~  
16 the SHPO or ~~his or her~~ his/her duly authorized representative shall ~~send a letter be sent~~ to the applicant enumerating  
17 the reasons for the project's failure to obtain a certification of rehabilitation. ~~owner.~~

18  
19 *History Note: Authority G.S. 105-129.105; 105-129.106; 105-129.107;*  
20 *Temporary Adoption Eff. January 1, 2016;*  
21 *Temporary adoption expired Eff. October 11, 2016;*  
22 *Eff. December 1, 2016.*

## SUBMISSION FOR PERMANENT RULE

<b>1. Rule-Making Agency:</b> North Carolina Historical Commission	
<b>2. Rule citation &amp; name (name not required for repeal):</b> 07 NCAC 04R .0924 "Standards for Rehabilitation"	
<b>3. Action:</b> <input checked="" type="checkbox"/> ADOPTION <input type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTON	
<b>4. Rule exempt from RRC review?</b> <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	<b>5. Rule automatically subject to legislative review?</b> <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
<b>6. Notice for Proposed Rule:</b> <input checked="" type="checkbox"/> <b>Notice Required</b> <b>Notice of Text published on:</b> 8/1/2016, Volume 31, Issue 03, Page 138 <b>Link to Agency notice:</b> <a href="https://www.ncdcr.gov/">https://www.ncdcr.gov/</a> <b>Hearing on:</b> 8/22/2016 <b>Adoption by Agency on:</b> October 11, 2016 <input type="checkbox"/> <b>Notice not required under G.S.:</b> <b>Adoption by Agency on:</b>	
<b>7. Rule establishes or increases a fee? (See G.S. 12-3.1)</b> <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	<b>8. Fiscal impact (check all that apply):</b> <input checked="" type="checkbox"/> State funds affected <input type="checkbox"/> Environmental permitting of DOT affected and analysis submitted to Board of Transportation <input checked="" type="checkbox"/> Local funds affected <input checked="" type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input checked="" type="checkbox"/> Approved by OSBM <input type="checkbox"/> No fiscal note required
<b>9. REASON FOR ACTION</b> <b>9A. What prompted this action? Check all that apply:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input checked="" type="checkbox"/> Agency  <input type="checkbox"/> Court order / cite:  <input type="checkbox"/> Federal statute / cite:  <input type="checkbox"/> Federal regulation / cite:         </div> <div style="width: 45%;"> <input checked="" type="checkbox"/> Legislation enacted by the General Assembly              Cite Session Law: S.L. 2015-241, s. 32-3.(a) - (c).  <input type="checkbox"/> Petition for rule-making  <input type="checkbox"/> Other:         </div> </div> <b>9B. Explain:</b> 07 NCAC 04R .0924 implements functions of Article 3L of G.S. 105. Subsection (a) incorporates several federal regulations that set forth the "Standards for Rehabilitation" used in determining if a rehabilitation project is eligible for certification. Subsection (b) explains that prior approval of a project by local agencies and organizations will not ensure certification for historic tax credit purposes.	
<b>10. Rule-making Coordinator:</b> Shawn Middlebrooks <b>Address:</b> 109 East Jones Street Raleigh, North Carolina 27601 <b>Phone:</b> 919-807-7275 <b>E-Mail:</b> shawn.middlebrooks@ncdcr.gov <b>Agency Contact, if any:</b> Ramona Bartos <b>Phone:</b> 919-807-6583 <b>E-Mail:</b> ramona.bartos@ncdcr.gov	<b>11. Signature of Agency Head* or Rule-making Coordinator:</b>  <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <b>*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.</b>  <b>Typed Name:</b> Shawn Middlebrooks <b>Title:</b> Assistant General Counsel
<b>RRC AND OAH USE ONLY</b>	
<b>Action taken:</b> <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

07 NCAC 04R. 0924 is adopted with changes as published in 31:03 NRC 138 as follows:

### **07 NCAC 04R .0924      STANDARDS FOR REHABILITATION**

(a) The SHPO shall evaluate applications for certifications of rehabilitation pursuant to the Standards of Rehabilitation as provided in 36 C.F.R. 67.7(a) – (d) and (f). For purposes of this Rule, references in these C.F.R. sections to the “Secretary” shall mean “SHPO.” (d), (f) are incorporated by reference and set forth the Standards for Rehabilitation and criteria used to determine if a rehabilitation project qualifies as a certified rehabilitation; references The Standards shall apply to interior and exterior features, related landscape features, the building’s site and environment, as well as attached, adjacent, or related new construction. in these cited C.F.R. sections to the “Secretary” shall mean “SHPO”.  
The SHPO shall also consult the NPS Guidelines for Rehabilitating Historic Building and the NPS Preservation Briefs during review of applications. The NPS Guidelines for Rehabilitating Historic Buildings are incorporated by reference, including subsequent amendments and editions, and can be found at no cost at <https://www.nps.gov/tps/standards/rehabilitation/rehab>. The NPS Preservation Briefs are incorporated by reference, including subsequent amendments and editions, and can be found at no cost at the following website: <https://www.nps.gov/tps/standards/rehabilitation/rehab/>—and <https://www.nps.gov/tps/how-to-preserve/briefs.htm>. Both publications are available for inspection with the North Carolina Historical Commission. In addition to those treatments outlined in 36 C.F.R. 67.7, other treatments that do not comply with the Standards for Rehabilitation include the following: The SHPO shall also consider the economic and technical feasibility of application of the Standards to the project under consideration.

- ~~(1) — removal of character defining historic exterior or interior materials and features, such as doors, windows, woodwork, and significant landscape features;~~
- ~~(2) — excessive site paving; installing undocumented or non period features; excessive alteration of exterior/interior features or spaces; removal of plaster from interior masonry walls to expose underlying masonry surface;~~
- ~~(3) — using sandblasting or damaging water pressure as an exterior cleaning method;~~
- ~~(4) — introduction of sealers or non breathable materials on masonry surface, insulation, storm windows, and epoxy as contraindicated by NPS Guidelines for Rehabilitating Historic Buildings and NPS Preservation Briefs;~~
- ~~(5) — installation of inappropriate replacement doors and windows such as metal or vinyl clad windows in place of wood windows; or~~
- ~~(6) — replacement of non deteriorated or repairable materials such as windows or millwork; painting unpainted masonry surfaces; and installation of artificial siding.~~

(b) Prior approval of a project by local agencies and organizations ~~does~~ shall not ensure certification by the SHPO for State tax credit purposes. ~~The Standards for Rehabilitation take precedence over other regulations and codes in determining whether the rehabilitation project is consistent with the historic character of the property, and where, applicable, the district in which it is located.~~

1    *History Note:*    *Authority G.S. 105-129.105; 105-129.106; 105-129.107;*  
2                            *Temporary Adoption Eff. January 1, 2016;*  
3                            *Temporary adoption expired Eff. October 11, 2016;*  
4                            *Eff. December 1, 2016.*

## SUBMISSION FOR PERMANENT RULE

<b>1. Rule-Making Agency:</b> North Carolina Historical Commission	
<b>2. Rule citation &amp; name (name not required for repeal):</b> 07 NCAC 04R .0925 "Fees for Processing Rehabilitation Certification Request"	
<b>3. Action:</b> <input checked="" type="checkbox"/> <b>ADOPTION</b> <input type="checkbox"/> <b>AMENDMENT</b> <input type="checkbox"/> <b>REPEAL</b> <input type="checkbox"/> <b>READoption</b>	
<b>4. Rule exempt from RRC review?</b> <input type="checkbox"/> <b>Yes. Cite authority:</b> <input checked="" type="checkbox"/> <b>No</b>	<b>5. Rule automatically subject to legislative review?</b> <input type="checkbox"/> <b>Yes. Cite authority:</b> <input checked="" type="checkbox"/> <b>No</b>
<b>6. Notice for Proposed Rule:</b> <input checked="" type="checkbox"/> <b>Notice Required</b> <b>Notice of Text published on:</b> 8/1/2016, Volume 31, Issue 03, Page 138 <b>Link to Agency notice:</b> <a href="https://www.ncdcr.gov/">https://www.ncdcr.gov/</a> <b>Hearing on:</b> 8/22/2016 <b>Adoption by Agency on:</b> October 11, 2016 <input type="checkbox"/> <b>Notice not required under G.S.:</b> <b>Adoption by Agency on:</b>	
<b>7. Rule establishes or increases a fee? (See G.S. 12-3.1)</b> <input checked="" type="checkbox"/> <b>Yes</b> <b>Agency submitted request for consultation on:</b> <b>Consultation not required. Cite authority:</b> G.S. 105-129.102 <input type="checkbox"/> <b>No</b>	<b>8. Fiscal impact (check all that apply):</b> <input checked="" type="checkbox"/> <b>State funds affected</b> <input type="checkbox"/> <b>Environmental permitting of DOT affected and analysis submitted to Board of Transportation</b> <input checked="" type="checkbox"/> <b>Local funds affected</b> <input checked="" type="checkbox"/> <b>Substantial economic impact (≥\$1,000,000)</b> <input checked="" type="checkbox"/> <b>Approved by OSBM</b> <input type="checkbox"/> <b>No fiscal note required</b>
<b>9. REASON FOR ACTION</b>	
<b>9A. What prompted this action? Check all that apply:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input checked="" type="checkbox"/> <b>Agency</b>  <input type="checkbox"/> <b>Court order / cite:</b>  <input type="checkbox"/> <b>Federal statute / cite:</b>  <input type="checkbox"/> <b>Federal regulation / cite:</b> </div> <div style="width: 45%;"> <input checked="" type="checkbox"/> <b>Legislation enacted by the General Assembly</b>              <b>Cite Session Law:</b> S.L. 2015-241, s. 32-3.(a) - (c).  <input type="checkbox"/> <b>Petition for rule-making</b>  <input type="checkbox"/> <b>Other:</b> </div> </div>	
<b>9B. Explain:</b> 07 NCAC 04R .0925 implements functions of Article 3L of G.S. 105. Subsection (a) authorizes the Agency to collect fees in response to request for rehabilitation certifications under the Program. Subsection (b) explains where payments may be made and stipulates that certification fees shall be non-refundable. Subsection (c) limits the Agency from charging rehabilitation fees on projects under twenty-five thousand dollars. Subsection (d) accounts for how initial fees will be applied to final review fees. Subsection (e) explains that how final review fees will be determined and provides an illustration of the corresponding fee schedule. Subsection (f) accounts for the circumstances by which initial fees and final fees are computed.	
<b>10. Rule-making Coordinator:</b> Shawn Middlebrooks <b>Address:</b> 109 East Jones Street Raleigh, North Carolina 27601 <b>Phone:</b> 919-807-7275 <b>E-Mail:</b> shawn.middlebrooks@ncdcr.gov <b>Agency Contact, if any:</b> Ramona Bartos <b>Phone:</b> 919-807-6583 <b>E-Mail:</b> ramona.bartos@ncdcr.gov	<b>11. Signature of Agency Head* or Rule-making Coordinator:</b>  <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <b>*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.</b>  <b>Typed Name:</b> Shawn Middlebrooks <b>Title:</b> Assistant General Counsel
<b>RRC AND OAH USE ONLY</b>	
<b>Action taken:</b>  <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

07 NCAC 04R. 0925 is adopted with changes as published in 31:03 NRC 138-139 as follows:

**07 NCAC 04R .0925 FEES FOR PROCESSING REHABILITATION CERTIFICATION REQUESTS**

(a) Upon submission of the application for a certification of rehabilitation, applicants for The North Carolina Department of Natural and Cultural Resources shall charge fees for reviewing income-producing and non-income-producing rehabilitation certificates shall pay a fee ~~certification requests~~ in accordance with ~~the schedule in Paragraph (e) of this Rule.~~

(b) Payment shall be made payable to: North Carolina Department of Natural and Cultural Resources. A certification decision by the State Historic Preservation Office shall not be issued on an application until the appropriate remittance is received by the department. Fees are nonrefundable.

~~(c) No fee shall be charged for rehabilitations under twenty five thousand dollars (\$25,000).~~

~~(d)(c) Initial fee for proposed rehabilitation project. The Applicants submitting proposed rehabilitation projects of over twenty-five thousand dollars (\$25,000) shall submit an application fee of two hundred fifty dollars (\$250) with Part A of their application as described in Rule .0920 of this Section. fee to initiate review of a proposed rehabilitation project over twenty five thousand dollars (\$25,000) is two hundred fifty dollars (\$250.00). The initial fee for review of a proposed rehabilitation project shall be credited towards and deducted from the final review fee.~~

~~(e)(d) Final review fee. Upon completion of a rehabilitation project and submission of Part B of the application as described in Rule .0920 of this Section, applicants shall submit an additional fee for review of the completed rehabilitation project in accordance with the schedule below. The fees for review of completed rehabilitation projects are based on the dollar amount of the costs attributed solely to the rehabilitation of the certified historic structure, structure as provided by the owner in the Historic Preservation Certification Application, Request for Certification of Completed Work, in accordance with the following schedule. The schedule below sets forth the total fee owed, including the initial two hundred and fifty-dollar (\$250) application fee as described in subsection (c) of this Rule:~~

Completed Qualifying Rehabilitation Expenditures	Fee
\$5,000 - \$25,000	\$0
\$25,001 - \$50,000	\$250
\$50,001 - \$75,000	\$500
\$75,001 - \$100,000	\$750
\$100,001 - \$150,000	\$1,000
\$150,001 - \$200,000	\$1,500
\$200,001 - \$300,000	\$1,750
\$300,001 - \$400,000	\$2,000
\$400,001 - \$500,000	\$2,250
\$500,001 - \$1,000,000	\$2,750
\$1,000,001 - \$5,000,000	\$5,750
\$5,000,001 or more	\$8,750

~~(e) The total fee for application and Fees for review of non-income-producing projects shall be capped at shall not exceed one thousand dollars (\$1,000) per discrete property parcel every five years. years, as qualifying rehabilitation expenditures for purposes of a tax credit are limited to one hundred fifty thousand dollars (\$150,000) per G.S. 105-129.101(b).~~

1 ~~(f) In the following cases, the initial fee for preliminary review of proposed projects is two hundred fifty dollars~~  
2 ~~(\$250.00) and the final fee for review of completed projects is computed on the basis of the total completed qualifying~~  
3 ~~rehabilitation expenditures:~~

4 ~~(1) In the case of a rehabilitation project that includes more than one certified historic structure where~~  
5 ~~the structures are judged by the reviewing authority to have been functionally related historically to~~  
6 ~~serve an overall purpose per Rule .0921(c) of this Section; or~~

7 ~~(2) In the case of multiple building projects where:~~

8 ~~(A) there is no historic functional relationship among the structures that are under the same~~  
9 ~~ownership;~~

10 ~~(B) are located in the same historic district;~~

11 ~~(C) are adjacent or contiguous;~~

12 ~~(D) are of the same architectural type (e.g., rowhouses, loft buildings, commercial buildings);~~  
13 ~~and~~

14 ~~(E) are submitted by the owner for review at the same time.~~

15  
16 *History Note: Authority G.S. 105-129.105; 105-129.106; 105-129.107;*  
17 *Temporary Adoption Eff. January 1, 2016;*  
18 *Temporary adoption expired Eff. October 11, 2016;*  
19 *Eff. December 1, 2016.*