

SECTION 19  
HISTORIC PRESERVATION

19.1 PURPOSE

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The historical heritage of the Town is one of its most valued and important assets. Conservation of historic properties will stabilize and increase property values in their areas and strengthen the overall economy of the Town, county and state. By means of listing, regulation and acquisition of historic properties, the Town seeks, within its zoning jurisdiction, to:

1. Safeguard its heritage by preserving any property therein that embodies important elements of its culture, history, architectural history or prehistory; and
2. Promote the use and conservation of such district or landmark for the education, pleasure and enrichment of the residents of the Town, county and state as a whole.

19.2 CONFLICT WITH OTHER LAWS

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Whenever this Section requires a longer waiting period or imposes other higher standards with respect to a designated historic property than are established under any other Charter provision, regulation or ordinance, this Section shall govern. Whenever the provisions of any other Charter provision, ordinance or regulation require a longer waiting period or impose other higher standards than are established under this Section, such other Charter provision, ordinance or regulation shall govern.

19.3 REMEDIES

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In case any building, structure, site, area or object designated as a historic landmark or located within a historic district designated pursuant to this Section is about to be demolished, whether as the result of deliberate neglect or otherwise, materially altered, remodeled or removed, except in compliance with this Section, the Town, the historic preservation commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, material alteration, remodeling or removal, to refrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area or object. Such remedies shall be in addition to any others authorized by this Section and the Waxhaw Unified Development Ordinance.

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## 19.4 | APPLICABILITY TO PUBLICLY OWNED PROPERTY

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All of the provisions of this Section are applicable to construction, alteration, moving and demolition by the state, its political subdivisions, agencies and instrumentalities; provided, however, that they shall not apply to interiors of buildings or structures owned by the state. The state shall have a right of appeal to the state Historical Commission, or as otherwise specified by state law.

## 19.5 | ORGANIZATION; MEMBERSHIP OF HISTORICAL COMMISSION

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- 1. Creation; Compensation; Appointments**  
There is hereby established, by the authority of G.S. 160A-400.1 et seq., the Town historic preservation commission, hereafter referred to as "the historic preservation commission," or "commission," to consist of seven members appointed by the Town Board of Commissioners. The commission shall serve without monetary compensation. In establishing the commission and making appointments to it, the Town Board of Commissioners may seek the advice of such state or local historical agencies, societies or organizations as it may deem appropriate.
- 2. Qualifications of Members**  
All members of the historic preservation commission shall be residents of the territory subject to the zoning jurisdiction of the Town, and a majority of the members shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields.
- 3. Tenure**  
Members of the historic preservation commission shall serve overlapping terms of three years. The initial members shall serve staggered terms; thereafter, all appointments shall be for a term of three years. Notwithstanding the foregoing, the Town Board of Commissioners may remove any member of the historic preservation commission with or without cause.
- 4. Rules of Procedure; Annual Report**  
The historic preservation commission shall adopt rules of procedure for the conduct of its business, and an annual report shall be prepared and submitted by March 1 of each year to the planning board and the Town Commissioners. Such report shall include a comprehensive and detailed review of the activities, problems and actions of the commission as well as any budget requests or recommendations. The commission shall keep a record of its members' attendance and of its resolutions, findings and recommendations, which record shall be a public record.

**5. Powers**

The historic preservation commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this Section and G.S. 160A-400.1 et seq., including, but not limited to, the following:

- A. As a guide for the identification and evaluation of landmarks or historic districts, the commission, at the earliest possible time and consistent with the resources available to it, shall undertake an inventory of properties of historical, architectural, prehistorical and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Office of Archives and History.
- B. Recommend to the Town Board of Commissioners areas to be designated by ordinance as an "historic district," and buildings, structures, sites, areas or objects within its zoning jurisdiction to be designated by ordinance as "landmarks."
- C. Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the same by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property.
- D. Restore, preserve and operate such historic properties.
- E. Recommend to the Town Board of Commissioners that the designation of any area as a historic district or part thereof, or designation of any building, structure, site, area or object as a historic landmark be revoked or removed for cause.
- F. Conduct an educational program with respect to historic properties within its jurisdiction.
- G. Cooperate with the state, federal and local governments in the pursuance of the purposes of this Section. The Town Board of Commissioners or the commission, when authorized by the Town Board of Commissioners, may contract with the state or the United States of America, or any agency of either, or with any other organization, provided the terms are not inconsistent with state or federal law.
- H. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member,

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employee or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof.

- I. Prepare and recommend the official adoption of a preservation element as part of the municipality's comprehensive plan.
- J. Review and act upon proposals for alterations, demolitions or new construction within historic districts, or for the alteration or demolition of designated landmarks, pursuant to this Section.
- K. Negotiate at any time with the owner of a building, structure, site area, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.
- L. Accept funds granted to the commission for preservation purposes from private individuals and organizations.
- M. Adopt by rule design guidelines whose purpose shall be to ensure, insofar as possible, that changes in designated historic properties shall be in harmony with the reasons for their designation.
- N. Adopt rules of procedure for the conduct of its business.

**6. Receipt and Expenditure of Funds**

The Board of Commissioners may make appropriations to the historic commission in any amount that it may determine necessary for the expenses of the operation of the commission. The commission, within the limits of funds appropriated for its use, may expend funds for the operation of the commission affairs and for the acquisition, restoration, preservation, operation and management of buildings, structures, sites, areas or objects located within a historic district or designated as such historic landmark, or of land on which such buildings or structures are located or to which they may be removed. The Board of Commissioners may require that any properties obtained with funds appropriated by the Board of Commissioners be titled to and owned by the Town.

**7. Staff and Technical Services**

The commission may recommend to the Town Commissioners suitable arrangements for the procurement or provision of staff or technical services to the commission.

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## 19.6 DESIGNATION OF LANDMARKS

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**1. Generally, Adoption of Ordinance**

Upon compliance with the procedures set out in subsection 3 of this section, the Town Board of Commissioners may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. The ordinance shall describe

each property designated therein, the name of the owner of the property, those elements of the property that are integral to its historical, architectural or prehistorical value, including the land area of the property so designated, and any other information the Town Board of Commissioners deems necessary. For each building, structure, site, area or object so designated as a historic landmark, the ordinance shall require that the waiting period set forth in this Section be observed prior to its demolition. For each designated landmark, the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right-of-way.

**2. Criteria for Commission’s Recommendation of Designation**

No property shall be recommended for designation as a historic landmark unless (i) the property owner consents and (ii) it is deemed and found by the historic preservation commission to be of special significance in terms of its historical, prehistorical, architectural or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

**3. Required Procedures**

No ordinance designating a historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the commission or the Town Board of Commissioners, until the following procedural steps have been taken:

- A. The commission shall prepare and adopt rules of procedure and prepare and adopt principles and guidelines not inconsistent with state law or this Section, for altering, restoring, moving or demolishing properties designated as landmarks.
- B. The commission or property owner shall make or cause to be made an investigation and report on the historic, architectural, prehistoric educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. The investigation and report shall contain such information as required by rules of procedure and/or guidelines adopted by the commission in addition to the following (i) the name of the property, both common and historic names if they can be determined; (ii) the name and address of the current property owner; (iii) the location of the property and a justification of the land proposed to be designated historic; (iv) the date of construction and of any later alterations, if any; and (v) an overall photograph that clearly depicts the property proposed to be designated and supplementary photographs showing facades, details and siting. Such investigation or report shall be submitted to the Office of Archives and History, North Carolina Department of Cultural Resources.

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1. Once the designation report has been prepared, either by the commission or by the owner, the commission shall consider the report. The commission may accept it, amend it, reject it or recommend further study.
  2. A designation report prepared by or for the commission may be considered at any meeting of the commission provided the notification requirements contained in subsection 3.B.3 of this section are met. A complete application for designation prepared by the property owner must be received at least 30 calendar days prior to the next meeting of the commission to be considered at the meeting.
  3. When a designation report is prepared by the commission and is to be considered at a commissioners' meeting, the chairperson or his designee shall notify by certified mail, mailed not less than seven calendar days prior to the meeting at which the matter is to be heard, the owners of the property and the owners of abutting property. When an application for designation is submitted by the owner, the chairperson or his designee, using stamped, addressed envelopes provided by the owner, shall notify the abutting property owners by certified mail, mailed not less than seven calendar days prior to the meeting at which the matter is to be heard.
- C. The Department of Cultural Resources, acting through the State Historic Preservation Officer, shall, either upon request of the department or at the initiative of the commission, be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this Section. Any comments shall be provided in writing. If the Department of Cultural Resources does not submit its comments or recommendations in connection with any designation within 30 days following receipt by the Department of the investigation and report of the commission, the commission and the Town Board of Commissioners shall be relieved of any responsibility to consider such comments.
- D. The commission and the Town Board of Commissioners shall hold a joint public hearing or separate public hearings on the proposed ordinance of designation. Reasonable notice of the time and place thereof shall be given. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, G.S. 143-318.9 et seq.
- E. Following the joint public hearing or separate public hearings, the Town Board of Commissioners may adopt the ordinance of designation as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

- F. Upon adoption of the ordinance of designation, the owners and occupants of each designated landmark shall be given written notification of such designation by the Town, insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the commission in the office of the register of deeds of the county. Each designated landmark shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the register of deeds office, and the commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments thereto shall be kept on file in the office of the Town Clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the code enforcement officer. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the Town and county for such period as the designation remains in effect.
- G. Upon adoption of an ordinance designating a landmark or any amendment thereto, it shall be the duty of the commission to give notice thereof to the county tax supervisor.

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## 19.7 HISTORIC DISTRICTS

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### 1. Character of Historic Districts

Historic districts established pursuant to this Section shall consist of areas which are deemed to be of special significance in terms of their history, prehistory, architecture and/or culture, and to possess integrity of design, setting materials, feeling and association.

### 2. Procedures for Designation

- A. Investigation and recommendation by historic preservation commission. The commission shall determine whether any areas within the zoning jurisdiction of the Town possess the character of historic districts as specified in 19.7.1 of this section. If the commission makes such a determination, it shall cause to be made an investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, including therein the boundaries of such proposed district.
- B. Review by the Department of Cultural Resources. The historic preservation commission shall cause a copy of this report, along with a written request for an analysis thereof, to be provided to the Department of Cultural Resources. The Department, acting through the State Historic Preservation Officer or his designee, shall make an analysis of and recommendations concerning such report. Failure of the Department to submit its written analysis and

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recommendations to the Town Board of Commissioners within 30 calendar days, after receipt of the written request and report, shall relieve the Town of any responsibility for awaiting such analysis, and the Town Board of Commissioners may at any time thereafter take any necessary action to adopt or amend its zoning ordinance and thereby designate, or modify designation of, a historic district.

- C. Review and comment by the planning board. The historic preservation commission shall also cause a copy of this report to be provided to the planning board who will review it and make comments upon it in accordance with the procedures set forth in the zoning ordinance.

**3. Designation by Town Board of Commissioners**

The Town Board of Commissioners may, as part of a zoning appropriateness other ordinance enacted or amended pursuant to this Section, designate and from time to time amend one or more historic districts within the zoning jurisdiction of the Town. Such ordinance may treat historic districts either as a separate use district classification or as districts which overlay other zoning districts. Where historic districts are designated as separate use districts, the zoning ordinance may include as uses by right or as conditional uses those uses found by the historic preservation commission to have existed during the period sought to be restored or preserved, or to be compatible with the restoration of the district.

**4. Changes in District Boundaries**

Proposed changes in the boundaries of a designated historic district must comply with the requirements of this section.

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## 19.8 CERTIFICATE OF APPROPRIATENESS

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**1. Activities Requiring a Certificate of Appropriateness**

From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement or other appurtenant features), nor aboveground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on such landmark or within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the preservation commission. The Town shall require such a certificate to be issued by the commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out

the purposes of this Section. A certificate of appropriateness shall be required whether or not a building or other permit is required.

For purposes of this section, the term "exterior features" shall include the architectural style, general design and general arrangement of the exterior of the building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of outdoor advertising signs, the term "exterior features" shall be construed to mean the style, material, size and location of all such signs. Such exterior features shall include significant landscape, archaeological and natural features of the area.

**2. Jurisdiction Limited to Exterior Features**

Except as provided in 19.8.3 of this section, the commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising, signs or other significant features in the district which would be incongruous with the special character of the landmark or district.

**3. Regulation of Interior Features with Landowner Consent**

Notwithstanding subsection 19.8.2 of this section, jurisdiction of the commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in public-owned landmarks and of privately owned historic landmarks for which consent for interior review has been given in writing by the owner. Such written consent of an owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the register of deeds of the county in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.

**4. Relocation, Demolition or Destruction of Designated Properties**

An application for a certificate of appropriateness authorizing the relocation, demolition or destruction of a designated landmark or a building, structure or site within a designated historic district may not be denied except as provided in subsection 4.A of this section. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the commission where it finds that the owner would suffer extreme hardship or be deprived of all beneficial use of or return from such property by virtue of the delay. During such period the commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the commission finds that a building or site within a district has no special significance or value toward maintaining the character of a

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district, it shall waive all or parts of such period and authorize earlier demolition or removal.

- A. Denial of certificate. An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site or structure determined by the state historic preservation officer as having statewide significance, as defined in the criteria of the National Register of Historic Places, may be denied except where the commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

## 5. **Ordinary Maintenance or Repair**

Nothing in this Section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district or of a landmark which does not involve a change in design, material or appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, moving or demolition of any such feature when the building inspector certifies to the commission that such action is required for the public safety because of an unsafe or dangerous condition. Nothing in this Section shall be construed to prevent (i) the maintenance or (ii) in the event of an emergency, the immediate restoration, of any existing above-ground utility structure without approval by the preservation commission.

- 6. Prior to any action to enforce any landmark or historic district provisions set forth in this Section, the commission shall (i) prepare and adopt rules of procedure, and (ii) prepare and adopt principles and guidelines not inconsistent with this Section for new construction, alterations, additions, moving and demolition.

- 7. All applications for a certificate of appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 90 days from the date the application for a certificate of appropriateness is filed. An applicant may at any time demand in writing that the commission take final action as soon as possible. Upon receipt of such written demand, the commission shall take final action at the next commission meeting which is at least 21 days in the future. Applications shall be filed with the Town's planning department. The commission shall, by uniform rules in its rules of procedure, require data as is reasonably necessary to determine the nature of the application. An application for a certificate of appropriateness shall not be considered complete until all required data has been submitted.

- A. Prior to issuance or denial of a certificate of appropriateness, the commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application and shall give the applicant and such owners an opportunity to be heard. The commission shall notify all adjacent property owners seven business days prior to the meeting for

which the application is scheduled. A property shall be deemed adjacent notwithstanding the intervention of a street right-of-way that is 100 feet wide or less.

- B. In cases where the commission deems it necessary, it may hold a public hearing concerning the application.
- C. The commission shall take action on the application and in doing so shall apply the requirements of this Section and the design guidelines adopted by the commission. The commission's action on the application shall be approval, approval with modifications or disapproval. Prior to final action on an application, the commission, using the guidelines, shall make findings of fact indicating the extent to which the application is or is not in compliance with the review criteria.

**8. Minor Works**

The commission shall delegate to their professional staff, hereafter referred to as their "coordinator," approval of minor works. Minor works are defined as those exterior changes that do not involve a change to the visual character of the property and do not involve substantial alterations, additions, or removals that could impair the integrity of the property and/or district as a whole. Specific examples of minor works are described in the rules of procedure adopted, as amended from time to time, by the commission.

The commission coordinator may approve but may not deny an application for a certificate of appropriateness for minor works. If the commission coordinator determines to not issue a certificate of appropriateness for minor works, the application shall be referred to the commission for action. A decision by the commission coordinator to issue a certificate of appropriateness for minor works may be appealed in the same manner as other decisions made by the commission as described above.

**9. Authentic Restoration or Reconstruction Not Meeting Zoning Requirements**

If the historic preservation commission, in reviewing an owner's proposed plans, shall find that a building or structure for which a building permit is required is to be an authentic restoration or reconstruction of a building or structure which existed at the same location, but does not meet zoning requirements, such building or structure may be authorized to be restored or reconstructed at the same location where the original buildings or structures were located, provided the board of adjustment authorizes such restoration or reconstruction and no use other than that permitted in the district in which it is located is made of such property. Such conditions as may be set by the commission and the zoning board of adjustment shall be conditions for the issuance of the building permit.

**10. Appeals**

In appeal may be taken to the zoning board of adjustment from the commission's action in granting or denying any certificate, which appeals: (i) may be taken by any aggrieved

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party; (ii) shall be taken within 15 days of the commission's action; and (iii) shall be in the nature of certiorari. Any appeal from the zoning board of adjustment's decision in any such case shall be taken to the superior court of the county.

## 19.9 | DEMOLITION BY NEGLECT

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### 1. **Standard**

The exterior features of any building or structure (including walls, fences, light fixtures, steps, pavement, paths, or any other appurtenant feature), or any type of outdoor advertising sign either designated as a historic landmark or located within a historic district shall be preserved by the owner or such other person who may have legal possession, custody and control thereof against decay and deterioration and kept free from structural defects. The owner, or other person having such legal possession, custody and control, shall upon written request by the Town repair such exterior features if they are found to be deteriorating, or if their condition is contributing to deterioration, including but not limited to any of the following defects which have the effect of significantly impairing the integrity of such building or structure or the special character of such historic district:

- A. Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling.
- B. Deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling.
- C. Deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling.
- D. Deterioration or crumbling of exterior plasters or mortars.
- E. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.
- F. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering.
- G. Rotting, holes, and other forms of decay.

- H. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delimitation, instability, loss of shape and form, or crumbling.
- I. Heaving, subsidence, or cracking of sidewalks, steps, or pathways.
- J. Deterioration of fences, gates, and accessory structures. (11) Deterioration that has a detrimental effect upon the special character of the district as a whole or the unique attributes and character of the historic landmark.
- K. Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or other property.

## 2. **Petition and Action**

The historic preservation commission may file a petition listing specific defects with the zoning administrator requesting that administrator act under the following procedures to require the correction of deterioration or making of repairs to any historic landmark or structure located within a historic district so that such structure shall be preserved and protected in accordance with the purposes of this Section.

- A. Whenever a petition is filed with the zoning administrator charging that a structure is undergoing demolition by neglect, the administrator shall, if her preliminary investigation discloses a basis for such charges, within seven days issue and cause to be served upon the owner and/or such other person who may have legal possession, custody, and control thereof, as the same may be determined by reasonable diligence, a citation stating the charges in that respect and containing a notice that a hearing will be held before the administrator not less than 30 nor more than 45 days after the serving of such citation; that the owner and/or parties in interest shall be given a right to answer to give testimony at the place and time fixed in the citation; that the commission shall also be given notice of the hearing and that the rules of evidence prevailing in courts of law or equity shall not be controlling hearings before the administrator. The purpose of the hearing is to receive evidence concerning the charge of deterioration and to ascertain whether the owner and/or other parties in interest wishes to petition the commission for a claim of undue economic hardship.
  - (i) Methods of service. Citations or orders issued by the administrator shall be served upon persons either personally or by registered or certified mail; but if the whereabouts of such persons are unknown and the same cannot be ascertained by the administrator in the exercise of reasonable diligence, and the administrator shall make an affidavit to that effect, stating the steps taken to

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determine and locate the persons in interest, then the serving of such complaint or order may be made by publishing the same once each week for two successive weeks in a newspaper generally circulated within the Town. Where such service is by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

- B. If after such notice and hearing, the administrator determines that the structure is undergoing demolition by neglect because it is deteriorating, or if its condition is contributing to deterioration, according to the standards of 19.9.1 above, the administrator shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owner and/or other parties in interest therein an order to repair within the time specified those elements of the structure that are deteriorating, contributing to deterioration, or deteriorated. In the event that the owner and/or other parties in interest wish to petition for a claim of undue economic hardship, the administrator's order shall be stayed until after the commission's determination in accordance with the procedures of 19.9.3.

### 3. Safeguards from Undue Economic Hardship

When a claim of undue economic hardship is made owing to the effects of this article, the administrator shall notify the commission within three days following the hearing on the citation. The commission shall schedule a hearing on the claim at its next regular meeting, within the limitations of its procedures for application deadlines.

- A. The owner and/or parties in interest must provide evidence during the hearing upon the claim, describing the circumstances of hardship. In the event that any of the required information is not reasonably available to the owner and/or parties in interest and cannot be obtained by the owner, the owner shall describe the reasons why such information cannot be obtained. The minimum evidence shall include for all property:
  - 1. Nature of ownership (individual, business, or non-profit) or legal possession, custody, and control.
  - 2. Financial resources of the owner and/or parties in interest.
  - 3. Cost of repairs.
  - 4. Assessed value of the land and improvements.
  - 5. Real estate taxes for the previous two years.
  - 6. Amounts paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance.

- 7. Annual debt service, if any, for previous two years.
- 8. Any listing of the property for sale or rent, price asked, and offers received, if any.

For income producing property:

- 9. Annual gross income from the property for the previous two years.
- 10. Itemized operating and maintenance expenses for the previous two years, including proof that adequate and competent management practices were followed.
- 11. Annual cash flow, if any, for the previous two years.

B. Within 60 days of the commission's hearing on the claim, the commission shall cause to be made a finding of undue or no undue economic hardship and shall enter the reasons for such finding into the record. In the event of a finding of no undue economic hardship, the commission shall report such finding to the administrator, and the administrator shall cause to be issued an order for such property to be repaired within the time specified.

C. In the event of a finding of undue economic hardship, the finding shall be accompanied by a recommended plan to relieve the economic hardship. This plan may include, but is not limited to, property tax relief as may be allowed under North Carolina law, loans or grants from the Town, or other public, private or nonprofit sources, acquisition by purchase or eminent domain, building code modifications, changes in applicable zoning regulations, or relaxation of the provisions of the article sufficient to mitigate the undue economic hardship. The commission shall report such finding and plan to the administrator. The administrator shall cause to be issued an order for such property to be repaired within the time specified and according to the provisions of the recommended plan.

**4. Appeals**

An appeal may be taken to the zoning board of adjustment from the commission's action related to demolish by neglect, which appeals: (i) may be taken by any aggrieved party; (ii) shall be taken within 15 days of the commission's action; and (iii) shall be in the nature of certiorari. Any appeal from the zoning board of adjustment's decision in any such case shall be taken to the superior court of the county.

**5. Other Town Powers**

Nothing contained within this article shall diminish the Town's power to declare an unsafe building or violation of the minimum housing code.

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**6. Penalties and Remedies**

Enforcement of this Section may be by any one or more of the following methods, and the institution of any action under any of these methods shall not relieve any party from any other civil or criminal proceeding prescribed for violations and prohibitions.

- A. Equitable remedy. The Town may apply for any appropriate equitable remedy to enforce the provisions of this section 19.9.
  
- B. Order of abatement. The Town may apply for and the court may enter an order of abatement. An order of abatement may direct that improvements or repairs be made, or that any other action be taken that is necessary to bring the property into compliance with this section 19.9. In the event the Town executes an order of abatement, the Town shall have a lien, in the nature of a mechanic's and materialman's, on the property for the cost of executing such order.
  
- C. Civil penalty. No civil penalty shall be levied unless and until the administrator shall deliver a written notice by personal service or by registered mail or by certified mail, return receipt requested, to the person responsible for each violation indicating the nature of the violation and ordering corrective action. The notice shall also set forth the time period when corrective measures must be completed. The notice shall state that failure to correct the violation within the specified time period will result in the assessment of civil penalties and other enforcement action. If after the allotted time period has expired and after the hearing of an appeal if any by the board of adjustment, corrective action has not been completed, a civil penalty may be assessed in the amount of \$50.00 per day of continuing violation.