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HISTORIC PRESERVATION

Section 12.1 Purpose and Intent

The historical heritage of the Town of Waxhaw is one of its most valued and important assets. Conservation of historic properties will help stabilize and increase property values in the surrounding areas and strengthen local, county and state economies. By means of recognizing, regulating and acquiring historic properties, the Town seeks, within its zoning jurisdiction, to:

- A. Safeguard its heritage by preserving any property therein that embodies significant elements of its culture, history, architectural history or prehistory; and
- B. Promote the use and conservation of such district or landmark for the education, pleasure and enrichment of local, county and state residents.

Section 12.2 Designation of Landmarks

- A. The Board of Commissioners (BOC) may adopt and, from time to time, amend or repeal an ordinance designating one or more historic landmarks. The Code 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 BOC 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.
- B. 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 (HPC) 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.

- C. The HPC shall prepare and adopt rules of procedure and prepare and adopt principles and standards consistent with state law or this chapter, for altering, restoring, moving or demolishing properties designated as landmarks.
- D. 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 HPC or the BOC, until the following procedural steps have been taken:
1. The HPC 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 standards adopted by the HPC in addition to the following:
 - a. name of the property (both common and historic) if they can be determined;
 - b. name and address of the current property owner;
 - c. location of the property and a justification of the land proposed to be designated historic;
 - d. date of construction and of any later alterations, if any; and
 - e. photograph(s) 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.

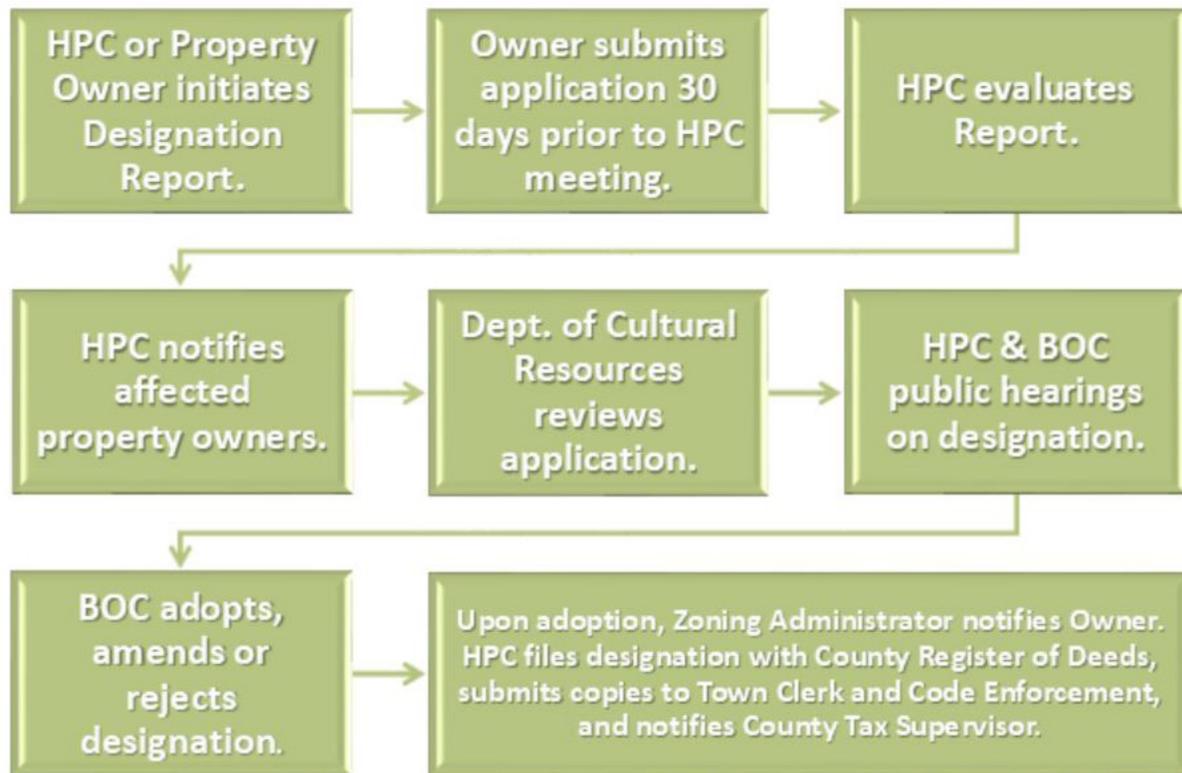
2. Once the designation report has been prepared, either by the HPC or by the owner, the HPC shall consider the report. The HPC may accept it, amend it, reject it or recommend further study.
3. A designation report prepared by or for the HPC may be considered at any meeting of the HPC provided the notification requirements contained in subsection 12.2.C.iii 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 HPC to be considered at the meeting.
4. When a designation report is prepared by the HPC and is to be considered at a BOC meeting, the chairperson or appointed designee shall notify the owners of the property and the owners of abutting property by certified mail, mailed not less than seven calendar days prior to the meeting at which the matter is to be heard. When an application for designation is submitted by the owner, the chairperson or appointed designee 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, using stamped, addressed envelopes provided by the owner.

5. 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 HPC, 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 HPC and the BOC shall be relieved of any responsibility to consider such comments.
6. The HPC and the BOC 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 HPC shall be open to the public, in accordance with the North Carolina Open Meetings Law, G.S. 143-318.9 et seq.
7. Following the joint public hearing or separate public hearings, the BOC may adopt the ordinance of designation as proposed, or with any amendments it deems necessary, or reject the proposed ordinance.
8. 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. One copy of the ordinance and all amendments thereto shall be filed by the HPC with the Union County Register of Deeds. 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 HPC 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.
9. Upon adoption of an ordinance designating a landmark or any amendment thereto, it shall be the duty of the HPC to give notice thereof to the County Tax Supervisor.

Section 12.3 Certificate of Appropriateness

- A. 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 structure (including masonry walls, fences, light fixtures, steps and pavement or other appurtenant features), nor above ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on such landmark or within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to, and approved by the HPC through hearings and procedural requirements for quasi-judicial decision-making. The Town shall require such a certificate to be issued by the HPC 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 chapter.

Fig. 12.2.D Designation of Landmarks Procedure



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.

- B. Jurisdiction Limited to Exterior Features.** The HPC 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.
- C. Regulation of Interior Features.** Jurisdiction of the HPC 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 Union County Register of Deeds in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the HPC's jurisdiction over the interior.

D. 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 12.4.D.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 HPC 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 HPC 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 HPC finds that a building or site within a district has no special significance or value toward maintaining the character of a district, it shall waive all or parts of such period and authorize earlier demolition or removal.

E. 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 HPC finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

F. 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 local 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 HPC that such action is required for the public safety because of an unsafe or dangerous condition. Nothing in this Chapter 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 HPC.

G. Prior to any action to enforce any landmark or local historic district provisions set forth in this chapter, the HPC shall (i) prepare and adopt rules of procedure, and (ii) prepare and adopt principles and standards consistent with this chapter for new construction, alterations, additions, moving and demolition.

H. 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 HPC take final action as soon as possible. Upon receipt of such written demand, the HPC shall take final action at the next HPC meeting which is at least 21 days in the future. Applications shall be filed with the Planning Department. The HPC shall, by uniform rules in its rules of procedure, require information 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 information has been submitted.

1. Prior to issuance or denial of a Certificate of Appropriateness, the HPC 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 HPC shall notify all adjacent property owners in compliance with NCGS 160D-406.b.
2. In cases where the HPC deems it necessary, it may hold a hearing concerning the application.
3. The HPC shall take action on the application and in doing so shall apply the requirements of this Chapter and the Waxhaw Historic Landmark Guidelines adopted by the HPC. The HPC's action on the application shall be approval, approval with modifications or disapproval. Prior to final action on an application, the HPC, using the Landmark Guidelines, shall make findings of fact indicating the extent to which the application is or is not in compliance with the review criteria.

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

J. Authentic Restoration or Reconstruction Not Meeting Zoning Requirements. If the HPC, in reviewing an owner's proposed plans, finds 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 through a variance request, 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 HPC and the Board of Adjustment shall be conditions for the issuance of the building permit.