

Article 8 HISTORIC PRESERVATION

8.01 Historic Districts

8.01.01 Designation of Historic Districts: Upon recommendation by the Historic Preservation Commission or on its own initiative the Council may designate Historic Districts as overlay districts in the Town's planning jurisdiction. However, no historic district shall be designated until:

- A. An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared, and
- B. The North Carolina Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the Town within thirty calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the Town of any responsibility for awaiting such analysis, and the Council may at any time thereafter take any necessary action to amend the zoning map.

8.01.02 Modification of Historic District Boundaries and Creation of Additional Districts.

- A. After its initial designation of Historic Districts, should the Council wish to make changes in the boundaries of any such district subsequent to its initial establishment, or create additional districts within the jurisdiction, the investigative studies and reports required by Subsection 8.01.01 of this Section shall be prepared by the Historic Preservation Commission, and shall be referred to the Planning Commission for its review and comment. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the North Carolina Department of Cultural Resources in accordance with the provisions of Subsection 8.01.01.
- B. On receipt of these reports and recommendations, the Council may proceed to amend the Town's zoning map in accordance with Article 9 of this Ordinance.

8.02 Landmarks.

8.02.01 Designation of landmarks.

- A. The Council may adopt, amend or repeal Ordinances designating one or more historic landmarks. No property shall be recommended for designation as a historic landmark unless 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.

- B. Each property designated as a landmark shall be identified in the Ordinance, along with the name or names of the owner or owners 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 Council 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 Article be observed prior to its demolition. For each designated landmark, the Council may also provide for a suitable sign on the property indicating that the property has been so designated, and if the owner consents, the sign shall be placed upon the property. Otherwise, the sign shall be placed on a nearby public right-of-way.

8.03 Certificate of Appropriateness Required.

8.03.01 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 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 has been submitted to and approved by the Historic Preservation Commission. Such a Certificate must also be issued by the Historic Preservation 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 Article. A Certificate of Appropriateness shall be required whether or not a building or other permit is required.

8.03.02 For purposes of this Section, "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a 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. Such "exterior features" shall include historic signs, color, and significant landscape, archaeological, and natural features of the area.

8.03.03 In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size, and location of all such signs.

8.03.04 Except as provided in 8.03.05, the Historic Preservation 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.

- 8.03.05** Notwithstanding Subsection 8.03.01, jurisdiction of the Historic Preservation Commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said 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 Watauga County Register of Deeds and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the Historic Preservation Commission's jurisdiction over the interior.
- 8.03.06** Prior to any action to enforce this Article, the Historic Preservation Commission shall:
- A.** Prepare and adopt rules of procedure, and
 - B.** Prepare and adopt principles and guidelines not inconsistent with this Article for new construction, alterations, additions, moving and demolition within historic districts and relating to landmarks.
- 8.03.07** The Historic Preservation Commission may delegate to the Administrator, subject to detailed standards, review and approval of certain applications for a Certificate of Appropriateness. However, no application for a Certificate of Appropriateness may be denied without formal action by the Historic Preservation Commission taken in accordance with its duly adopted Rules of Procedure.
- 8.03.08** Prior to issuance or denial of a Certificate of Appropriateness the Historic Preservation Commission shall take such steps as may be reasonably 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. In cases where the Historic Preservation Commission deems it necessary, it may hold a public hearing concerning the application.
- 8.03.09** All applications for Certificates of Appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date the application for a Certificate of Appropriateness is filed, as defined by the Historic Preservation Commission's Rules of Procedure. As part of its review procedure, the Commission may view the premises and seek the advice of the North Carolina Division of Archives and History or such other expert advice as it may deem necessary under the circumstances.
- 8.03.10** An appeal may be taken to the Board of Adjustment from the Historic Preservation Commission's action in granting or denying any certificate in accordance with the procedures set forth in Article 6.
- 8.03.11** This Article shall apply to construction, alteration, moving and demolition by the State of North Carolina, its political subdivisions, agencies and instrumentalities, excluding the interiors of buildings or structures owned by the State of North Carolina. The State and its

agencies shall have a right of appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under N.C. Gen. Stat. § 121-12(a) from any decision of the Historic Preservation Commission. The decision of the North Carolina Historical Commission shall be final and binding upon both the State and the Town of Boone Historic Preservation Commission.

8.04 Remedies

8.04.01 The Council or other party aggrieved may institute any appropriate action or proceedings to prevent unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to a designated building, structure, site, area or object.

8.05 Certain Changes Not Prohibited

8.05.01 Nothing in this Article 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 which the building inspector or similar official shall certify is required for public safety because of an unsafe or dangerous condition.

8.05.02 Nothing in this Article shall be construed to prevent a property owner from making any use of his property that is not prohibited by other law.

8.05.03 Nothing in this Article shall be construed to prevent a) the maintenance, or b) in the event of an emergency the immediate restoration, of any existing above-ground utility structure without approval by the Historic Preservation Commission.

8.06 Delay in Demolition of Landmarks and Buildings Within Historic District.

8.06.01 An application for a Certificate of Appropriateness authorizing the relocation, demolition or destruction of a designated landmark or a building, structure or site within the district may not be denied except as provided in Subsection 8.06.03.

A. However, the effective date of such a Certificate may be delayed for a period of up to 365 days from the date of approval.

1. This period of delay authorized by this Section shall be reduced by the Historic Preservation Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay.

B. During such period the Historic Preservation Commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site.

C. If the Historic Preservation Commission finds that a building or site within a district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition, or removal.

8.06.02 If the Historic Preservation Commission has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not yet been made by the Council, the demolition or destruction of any building, site, or structure located on the property of the proposed landmark or in the proposed district may be delayed by the Historic Preservation Commission for a period of up to 180 days or until the Council takes final action on the designation, whichever occurs first.

8.06.03 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 shall be denied except where the Historic Preservation Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.