

ARTICLE 8 HISTORIC PRESERVATION PROCEDURES

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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 in accordance with the procedures set forth in Article 9. 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 their 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 in accordance with the procedures set forth in Article 9. 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.

(Ord. PL04727-050721, 07-01-2021)

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 Statement of Conformity for minor work or a Certificate of Appropriateness (COA) for major work has been approved as detailed herein.

- A.** A Statement of Conformity or COA must be approved prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures.
- B.** A Statement of Conformity or COA may be issued subject to reasonable conditions necessary to carry out the purposes of this Article.
- C.** A Statement of Conformity or COA is required whether or not a building or other permit is required.
- D.** Approval for ordinary or routine maintenance of the exterior features of a building does not require approval under this Article. Ordinary or routine maintenance includes only those activities which have no discernable effect on the appearance of or materials constituting the exterior features of a building or other structure. Examples include

cleaning or re-painting existing siding with the existing color of paint and replacing a piece of trim with trim of the same material and color.

- 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** 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.
- 8.03.07** 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.
- 8.03.08** 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.

(Ord. PL04727-050721, 07-01-2021)

8.04 Statement of Conformity for Minor Work

8.04.01 Upon application, the Administrator may issue a Statement of Conformity approving changes to a structure or a site that are judged not to have significant impact on the historical integrity or character of the property (“minor work”).

- A.** The application for a Statement of Conformity approving minor work is reviewed by the Administrator on the basis of the standards adopted for the landmark or district in accordance with the provisions of Article 4.
- B.** When the Administrator determines that an application for approval of a Statement of Conformity does not meet the requirement for such approval, the application will be forwarded to the HPC for review as a COA Application for Major Work. Upon such action by the Administrator, the applicant is required to submit such additional information or documentation as may be required for the COA review process.

8.04.02 Minor work that may be approved pursuant to issuance of a Statement of Conformity may include by way of example, but is not limited to, the following:

- A.** Installation of mechanical systems, air conditioning units, vents, and related equipment on secondary and tertiary elevations or adjacent land areas that does not involve alteration to the building.
- B.** Installation of patios and sidewalks in secondary and tertiary elevations or adjacent land areas.
- C.** Change of roofing materials with like materials on flat or low-slope roofs not visible from the street
- D.** Fence installation in land areas adjacent to secondary and tertiary elevations
- E.** Installation of skylights within a tertiary elevation
- F.** Installation of storm windows and doors where divided mullions of storm windows and doors align with windows and doors behind
- G.** Temporary signs as permitted herein; and/or approved historic house markers
- H.** Removal of synthetic siding where original siding exists underneath
- I.** Installation of new doors, door frames, and associated door sills in tertiary AVCs when new materials are compatible with the original in terms of size, design, and material.

8.04.03 Applications.

- A. Pre-Application Consultation.** Pursuant to UDO Subsection 4.04, a pre-application consultation to minimize development planning costs, avoid misunderstandings or misinterpretations, and ensure compliance with the requirements of this Ordinance, a preapplication consultation between the applicant and Staff is strongly encouraged.
- B.** In addition to the submittal requirements of Appendix A, as may be applicable, applications shall include:
1. **Written Description of the proposed work:** Describe in detail the scope and nature of the proposed project, including exact material types, colors, and dimensions for materials to be used (e.g., width of siding, color of window trim, type of roofing materials, etc.).
 2. **Design Standards References:** Cite the applicable sections of the design standards related to and/or reflected in the proposed request.
 3. **Photographs of Existing Conditions:** Provide current photographs showing the present conditions of the area where the work will be completed and/or the portions of any existing building that will be affected by the proposed work.
 4. **Site Plan:** For development which includes modifications to the site in addition to the building, the applicant shall provide scaled drawings prepared in accordance with UDO Appendix A, which depict at least the relationship of all buildings, secondary structures, driveways, sidewalks, fences, drains, lighting, and trees to the property line. Clearly identify the location of any and all proposed changes. Caliper of trees should be indicated as measured from four and a half feet (4.5') above the earth's surface.
 5. **Historical Documentation:** If available, provide copies of historic photographs of the property in question, along with a list of any known previous alterations to the property (and the approximate date of those alterations). If the property is already listed on the National Register of Historic Places or is a designated Local Historic Landmark, include a copy of the nomination text for the property.

(Ord. PL05044-083121, 10-21-2021)

8.05 Certificate of Appropriateness for Major Work

8.05.01 Major work includes all other work not considered as either ordinary or routine maintenance or minor work. Major work projects require a COA Application and a quasi-judicial hearing before the Historic Preservation Commission for approval.

- A.** All public hearings on Certificates of Appropriateness for major work shall be conducted in a quasi-judicial manner as described in Article 6.

8.05.02 Major work may include, but is not limited to, the following:

- A.** New construction or additions to buildings

- B. Reconstruction of buildings once located on the site but demolished or moved at some previous time
- C. Restoration or rehabilitation of an historic property to its historic appearance
- D. Pointing of masonry as well as alteration, repair, or replacement of masonry, siding, roofing materials, architectural trim elements, foundations, windows, doors, and other significant architectural details
- E. Demolition of any part of a building or structure
- F. Work that is likely to disrupt or damage known or discovered archaeological resources on the site
- G. Moving of buildings
- H. Replacement of architectural details when there will be a change in design or materials from the original or existing details
- I. Changes to rooflines
- J. Establishment of exterior fire exits
- K. Exterior modification of existing buildings for ADA compliance
- L. Painting or stuccoing of buildings not previously painted or stuccoed
- M. Installation of mechanical systems, air conditioning units, vents, and related equipment in primary elevations that involves alteration to the building facade
- N. Location of satellite dishes, solar panels, and other roof attachments to the primary elevation roof and/or facade of a building if they are not effectively screened or are visible from a public street

8.05.03 Applications

- A. Pre-application Consultation. Pursuant to UDO Subsection 4.04, a pre-application consultation to minimize development planning costs, avoid misunderstandings or misinterpretations, and ensure compliance with the requirements of this Ordinance, a preapplication consultation between the applicant and Staff is required.
 - 1. A pre-application consultation by the HPC is especially encouraged for applicants who plan on submitting a COA Application for Major Work. This free consultation can help applicants avoid delays in the formal COA approval process. During this review, applicants may request technical advice, design assistance, and color consultations from the HPC prior to the submission of a completed COA Application for Major Work.
 - 2. These reviews are typically held during the Commission's regularly scheduled monthly meetings. The following information should be prepared and submitted

to the Planning and Inspections Department when requesting a pre-application consultation with the HPC:

- a. Scaled site plan
 - b. Preliminary drawings indicating desired changes (provide photo simulations if available)
 - c. Photographs of existing conditions
 - d. All available historical documentation regarding the property.
- C. In addition to the submittal requirements of Appendix A, as may be applicable, applications for a Certificate of Appropriateness for major work shall include:
1. Written Description of the Proposed Work: Describe in detail the scope and nature of the proposed project, including exact material types, colors, and dimensions for materials to be used (e.g., width of siding, color of window trim, type of roofing materials, etc.).
 2. Design Standards References: Cite the applicable sections of the Design Standards related to and/or reflected in the proposed project.
 3. Photographs of Existing Conditions: Provide current photographs showing the present conditions of the area where the project will be completed and/or the portions of any existing building that will be affected by the proposed work.
 4. Site Plan: Provide scaled drawings showing the relationship of all buildings, secondary structures, driveways, sidewalks, fences, drains, lighting, and trees to the property line. Clearly identify the location of any and all proposed changes. Caliper of trees should be indicated as measured from four (4) feet above the earth's surface.
 5. Historical Documentation: If available, provide copies of historic photographs of the property in question, along with a list of any known previous alterations to the property (and the approximate date of those alterations). If the property is already listed on the National Register of Historic Places or is a designated Local Historic Landmark, include a copy of the nomination text for the property.
 6. Elevations: Provide architectural drawings showing all elevations where proposed work will occur. Include scale.
 7. For Projects Involving Demolition or Relocation: Describe the structure, the reason for its demolition or relocation, the proposed reuse of the site, as well as plans for new landscaping at the site.

(Ord. PL04727-050721, 07-01-2021)

8.06 Remedies for Unapproved Work

8.06.01 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.

(Ord. PL04727-050721, 07-01-2021)

8.07 Certain Changes Not Prohibited

8.07.01 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.

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

8.07.03 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.

(Ord. PL04727-050721, 07-01-2021)

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

8.08.01 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.

- 8.08.02** 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.
- 8.08.03** 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.

(Ord. PL04727-050721, 07-01-2021)