

CHAPTER 36: HISTORIC PRESERVATION COMMISSION

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§ 36.01 CREATION AND MEMBERSHIP.

(A) There is hereby established a Liberty Historic Preservation Commission (Commission) under the authority of G.S. Ch. 160A, Article 19, Part 3C.

(B) The Historic Preservation Commission shall consist of 7 members appointed by the Town Council. All members shall reside within the zoning jurisdiction of the town.

(C) A majority of the members of the Commission shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields.

(D) The Commission shall serve without compensation. The Commission may appoint advisory bodies and committees as appropriate.

(E) Members of the Commission shall serve terms of 4 years. Terms shall be staggered.

(F) Four of the initial members shall be appointed for 4-year terms and three for 2-year terms. A member may be reappointed for a second consecutive term, but after 2 consecutive terms a member shall be ineligible for reappointment until 1 calendar year has elapsed from the date of the termination of his or her second term.

(Ord. passed 3-27-1998)

§ 36.02 MEETINGS; RECORDS; PROCEDURE.

(A) *Meetings, nature of meeting and attendance.*

(1) The Historic Preservation Commission shall establish a meeting time, and shall meet at least quarterly and more often as it shall determine and require.

(2) All meetings of the Commission shall be open to the public and reasonable notice of the time and place thereof shall be given to the public. All meetings shall conform to the North Carolina Open Meetings Law, being G.S. Ch. 143, Art. 33C.

(3) Any member of the Historic Preservation Commission who misses more than 3 consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Commission and shall be replaced or reappointed by the Town Council.

(4) Absence due to sickness, death or other emergencies of like nature shall be recognized as approved absences and shall not affect the member's status on the Commission except that in the event of a long illness or other like cause for prolonged absence, the member shall be replaced.

(B) *Keeping of records, annual report.*

(1) The Historic Preservation Commission shall keep permanent minutes of all its meetings.

(2) The minutes shall record attendance of its members and its resolutions, discussions, findings and actions, which record shall be a public record.

(3) The Commission shall submit an annual report on its activities to the Town Council.

(C) *Rules of procedure and design guidelines.*

(1) The Historic Preservation Commission shall adopt and publish rules of procedure governing its meetings and the conduct of official business, the appointment of members, terms of office, the election of officers and related matters.

(2) The Commission shall also prepare and adopt detailed architectural and historical guidelines for altering, restoring, moving or demolishing properties designated as landmarks or within historic districts prior to taking any official action on certificates of appropriateness concerning like matters.

(Ord. passed 3-27-1998)

§ 36.03 GENERAL POWERS AND DUTIES.

Within the zoning jurisdiction of the Town of Liberty the Historic Preservation Commission is authorized and empowered to undertake actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this chapter and G.S. Ch. 160A, Article 19, Part 3C, including but not limited to the following:

(A) Undertake an inventory of properties of historical, prehistorical, architectural and/or cultural significance;

(B) Recommend to the Town Council areas to be designated by ordinance as historic districts and individual structures, buildings, sites, areas or objects to be designated by ordinance as landmarks;

(C) Recommend to the Town Council that designation of any area as a historic district, or part thereof, or designation of any building, structure, site, area or object as a landmark be revoked or removed for cause;

(D) 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 G.S. Ch. 160A, Article 19, Part 3C and this chapter;

(E) Conduct an educational program with respect to historic properties and districts within the jurisdiction of the town;

(F) (1) Cooperate with the state and federal government in pursuance of the purposes of G.S. Ch. 160A, Article 19, Part 3C and this chapter; to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest.

(2) The Town Council, or the Commission when authorized by the Town Council, may contract with the state or the United States, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law;

(G) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the Commission may enter any private building or structure without express consent of the owner or occupant thereof;

(H) Prepare and recommend the official adoption of a preservation element as part of the Town of Liberty Comprehensive Plan;

(I) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property 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;

(J) Restore, preserve and operate historic properties;

(K) Negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation, when the action is reasonably necessary or appropriate; and

(L) Receive and spend funds appropriated by the Town Council for operation and performance of the duties of the Preservation Commission; and accept grants of funds from private individuals or organizations for preservation purposes.

(Ord. passed 3-27-1998)

§ 36.04 AUTHORITY; APPROPRIATIONS; CONFERENCES.

(A) *Authority to inform public.* The Historic Preservation Commission shall have the power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ other means of publicity and education as it may determine.

(B) *Appropriations; authority for members, employees to attend historic preservation conferences; payment of expenses*

(1) The Town Council may appropriate to the Historic Preservation Commission funds in any amount that it determines to be necessary for the expenses of the operation of the Commission, and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation and management of historic buildings, structures, sites, areas or objects designated as historic landmarks or within designated historic districts, or of land on which buildings or

structures are located, or to which they may be removed.

(2) Members of the Historic Preservation Commission, when duly authorized by the Commission, may attend historic preservation conferences or hearings upon pending historic legislation, and the Commission may, by formal and affirmative vote pay, within the Commission's budget, reasonable traveling expenses incident to attendance.

(Ord. passed 3-27-1998)

§ 36.05 HISTORIC DISTRICTS AND LANDMARKS.

(A) Historic districts.

(1) Historic districts may be established under §§ 154.080 through 154.097 as overlay districts. All uses permitted in any primary zoning district, whether by right or as a special use, shall be permitted in a historic district.

(2) Historic districts may from time to time be designated, amended or repealed, provided however that no district shall be recommended for designation unless it is deemed to be of special significance in terms of its historical, prehistorical, architectural or cultural importance. A district must also possess integrity of design, setting, workmanship, materials, feeling and/or association. No district shall be designated, amended or repealed until the following designation procedure has been carried out:

(a) An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any proposed district, and a description of the boundaries of a district shall have prepared; and

(b) The Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and developed recommendations concerning the report and description of proposed boundaries. Failure of the Department to submit its written analysis and recommendations to the Town Council within 30 calendar days after a written request for analysis and recommendations have been received by the Department of Cultural Resources shall relieve the Town Council of any responsibility for awaiting the analysis and recommendations, and the Town Council may at any time thereafter take any necessary action to adopt or amend its Zoning Chapter.

(3) The Town Council may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendations prior to taking action to amend the Zoning Chapter.

(4) With respect to any changes in the boundaries of a district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by division (A)(2)(a) above shall be prepared by the Commission and shall be referred to the Planning Board for its review and comment according to the procedures set forth in the Zoning Chapter changes in the boundaries of an initial district or proposal for additional districts shall be submitted to the Department of Cultural Resources in accordance with the provisions of division (A)(2)(b) above.

(5) Upon receipt of these reports and recommendations the Town Council may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate Zoning Chapter provisions.

(B) Historic landmarks.

(1) Upon complying with the required landmark designation procedures set forth herein, the Town Council may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks.

(2) No property shall be recommended for designation by ordinance as a 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.

(3) The ordinance shall describe each property designated in the ordinance, 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 Town Council deems necessary.

(4) For each building, structure, site, area or object so designated as a landmark, the ordinance shall require that the waiting period set forth in this chapter be observed prior to its demolition.

(5) A suitable sign for each property designated as a landmark may be placed on the property with the owner's consent; otherwise the sign may be placed on a nearby public right-of-way.

(6) No property shall be designated as a landmark until the following steps have been taken.

(a) As a guide for the identification and evaluation of landmarks, the Historic Preservation Commission shall, at the earliest possible time and consistent with the resources available to it, undertake an inventory of properties of historical, architectural, prehistorical and cultural significance within the Zoning jurisdiction of the Town of Liberty. The inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Division of Archives and History, North Carolina Department of Cultural Resources.

(b) The Commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. The report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.

(c) The Department of Cultural Resources, acting through the State Historic Preservation Officer, or his or her

designee, 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. All comments will be provided in writing. If the Department does not submit its comments to the Commission within 30 days following receipt by the Department of the report, the Commission and the Town Council shall be relieved of any responsibility to consider the comments.

(d) The Commission and the Town Council shall hold a joint public hearing (or separate public hearings) on the proposed ordinance. Reasonable notice of the time and place thereof shall be given.

(e) Following the public hearing(s) the Town Council may adopt the landmark ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

(f) Upon adoption of the landmark ordinance the owners and occupants of each landmark shall be given written notification of the designation 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 Randolph County. Each designated landmark shall be indexed according to the name of the owner of the property in the grantor and grantee 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 Randolph County Building Inspector. The fact that a building, structure, site, area or object has been designated as a landmark shall be clearly indicated on all tax maps maintained by Randolph County for the period as the designation remains in effect.

(g) Upon the adoption of the landmark ordinance or any amendments thereto, it shall be the duty of the Commission to give notice thereof to the Tax Supervisor of Randolph County. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the Tax Supervisor in appraising it for tax purposes.

(Ord. passed 3-27-1998)

§ 36.06 CERTIFICATE OF APPROPRIATENESS REQUIRED.

(A) 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 any above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on the landmark or within a historic district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the Commission.

(B) A certificate is required to be issued by the Commission prior to the issuance of a zoning permit, 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. A certificate of appropriateness shall be required whether or not a zoning, building or other permit is required.

(C) For purposes of this chapter, **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 features.

(D) Exterior features may also include historic signs, color, any significant landscape, and archaeological and natural features of the area. In the case of outdoor advertising signs, **EXTERIOR FEATURES** shall be construed to mean the style, material, size and location of all like signs.

(E) The State of North Carolina (including its agencies, political subdivisions and instrumentalities), the Town of Liberty and all public utilities shall be required to obtain a certificate of appropriateness for construction, alteration, moving or demolition within a historic district or of designated landmarks, except as provided in §§ 36.13 and 154.080(D).

(Ord. passed 3-27-1998)

§ 36.07 APPLICATION FOR CERTIFICATE OF APPROPRIATENESS.

(A) Applications for a certificate of appropriateness shall be obtained from and when completed, filed with the Zoning Administrator. The application shall be filed at least 2 weeks prior to the next regularly scheduled meeting of the Historic Preservation Commission.

(B) Each application shall be accompanied by sketches, drawings, photographs, specifications, descriptions and other information of sufficient detail to clearly show the proposed exterior alterations, additions, changes or new construction.

(C) The names and mailing addresses of property owners filing and/or subject to the application and the addresses of property within 100 feet on all sides of the property which is the subject of the application must also be filed. No application which does not include the aforementioned information will be accepted.

(D) It shall be the policy of the Commission, in regard to applications involving new construction or extensive alterations and/or additions to existing structures, that a sub-committee of the Commission shall be available to meet with persons involved in planned or pending applications in order to advise them informally at an early stage in the development process concerning the Commission's guidelines, the nature of the area where the proposed project will take place, and other

relevant factors.

(E) The members of the sub-committee, collectively and individually, shall refrain from any indication of approval or disapproval. Advice or opinions given by any member of the sub-committee at an informal meeting shall not be considered official or binding upon the Commission.

(Ord. passed 3-27-1998)

§ 36.08 ACTION ON APPLICATION FOR CERTIFICATE OF APPROPRIATENESS.

(A) The Zoning Administrator shall notify, by mail, not less than 1 week prior to the meeting at which the matter is to be heard, the owners of property within 100 feet on all sides of the subject property.

(B) Applications for certificates of appropriateness shall be acted upon within 90 days after filing, otherwise the application shall be deemed to be approved and a certificate shall be issued. An extension of time may be granted by mutual consent of the Historic Preservation Commission and the applicant.

(C) As part of the review procedures the Commission may view the premises and seek the advice of the Department of Cultural Resources or other like expert advice as it may deem necessary under the circumstances. The Commission may hold a public hearing on any application when deemed necessary.

(D) The action on an application shall be approval, approval with conditions or denial and the decision of the Commission must be supported by specific findings of fact indicating the extent to which the application is or is not congruous with the special character of the historic district or landmark.

(Ord. passed 3-27-1998)

§ 36.09 HEARINGS FOR CERTIFICATE OF APPROPRIATENESS.

(A) Prior to the issuance or denial of a certificate of appropriateness the applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard. All meetings of the Historic Preservation Commission shall be open to the public in accordance with the North Carolina Open Meetings Law, G.S. Ch.143, Article 33C.

(B) The Commission shall have no jurisdiction over interior arrangement, except as provided below, and shall take no action under this chapter except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs or other significant features which would be incongruous with the special character of the historic district or landmark.

(C) The jurisdiction of the 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 landmarks for which consent for interior review has been given by the owners.

(D) Consent of an owner for interior review shall bind future owners and/or successors in title, provided the consent has been filed in the Randolph County Register of Deeds' office and indexed according to the name of the owner of the property in the grantor and grantee indexes.

(E) The landmark designation shall specify the interior features to be reviewed and the specific nature of the Commission's jurisdiction over the interior.

(F) All of the provisions of this chapter shall apply to construction, alteration, moving and demolition by the State of North Carolina, its political subdivisions, agencies and instrumentalities, provided however they shall not apply to interiors of buildings or structures owned by the State of North Carolina.

(Ord. passed 3-27-1998)

§ 36.10 APPEAL OF DECISION.

(A) An appeal may be taken to the Board of Adjustment from the Historic Preservation Commission's action in granting or denying any certificate by any aggrieved party and shall be in the nature of certiorari.

(B) Written notice of the intent to appeal must be sent to the Commission, postmarked within 30 days following the decision. An appeal from the Board of Adjustment's decision shall be heard by the Superior Court of Randolph County.

(C) The State of North Carolina or any of its agencies shall have a right of appeal to the North Carolina Historical Commission, which shall render its decision within 30 days from the date that a notice of appeal by the state is received by the North Carolina Historical Commission.

(D) The decision of the North Carolina Historical Commission shall be final and binding upon both the state and the Liberty Historic Preservation Commission.

(Ord. passed 3-27-1998)

§ 36.11 ADMINISTRATIVE APPROVAL OF MINOR WORKS.

(A) Notwithstanding § 36.08 above, upon receipt of a completed application the Zoning Administrator may issue a

certificate of appropriateness for minor works.

(B) Minor works are defined as those exterior changes which do not involve substantial alterations, additions or removals that could impair the integrity of the property and/or district as a whole.

(C) Minor works shall be limited to those listed in the Historic Preservation Commission's Architectural and Historic Guidelines.

(D) No application may be denied without the formal action of the Commission.

(E) All minor works applications approved by the Zoning Administrator shall be forwarded to the Commission in time for its next scheduled meeting.

(Ord. passed 3-27-1998)

§ 36.12 REVIEW CRITERIA.

(A) No certificate of appropriateness shall be granted unless the Historic Preservation Commission finds that the application complies with the detailed architectural and historic guidelines adopted by the Commission for review of changes and new construction.

(B) It is the intent of this chapter to ensure insofar as possible that construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs or other significant features in the district or of landmarks shall be congruous with the special character of the district or landmark.

(C) In considering new construction, the Commission may encourage contemporary design which is harmonious with the character of the district.

(D) In granting a certificate of appropriateness, the Commission shall take into account the historic or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure as well as the effect of the change or additions upon other structures in the vicinity.

(E) The Secretary of the Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* shall be the sole principles and guidelines used in reviewing applications of the State of North Carolina or any of its agencies for certificates of appropriateness.

(Ord. passed 3-27-1998)

§ 36.13 CERTAIN CHANGES NOT PROHIBITED.

(A) Nothing in this chapter 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, materials or outer appearance thereof; nor the ordinary maintenance or repair of streets, sidewalks, pavement markings, street signs or traffic signs; the construction, reconstruction, alteration, restoration or demolition of any like feature which the Building Inspector shall certify is required for public safety because of an unsafe or dangerous condition.

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

(Ord. passed 3-27-1998)

§ 36.14 CONFLICT WITH OTHER LAWS.

(A) Whenever this chapter requires a longer waiting period or imposes other higher standards with respect to a designated historic landmark or district than are established under any other statute, charter provision, ordinance or regulation, this chapter shall govern.

(B) Whenever the provisions of any other statute, charter provision, ordinance or regulation require a longer waiting period or impose other higher standards than are established under this chapter, other statute, charter provision, ordinance or regulation shall govern.

(Ord. passed 3-27-1998)

§ 36.15 ENFORCEMENT AND REMEDIES.

(A) Compliance with the terms of a certificate of appropriateness shall be enforced by the Zoning Administrator. Failure to comply with a certificate shall be a violation of the Town of Liberty Zoning Chapter and is punishable according to established procedures and penalties for the violations.

(B) In case any building, structure, site, area or object designated as a landmark or within a historic district is about to be demolished, whether as a result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed except in compliance with this chapter, the Town Council, the Commission, or other party aggrieved by the action may institute any appropriate action or proceeding to prevent the unlawful demolition, destruction, material alteration, remodeling or removal; to restrain, correct or abate the violation; or to prevent any illegal act or conduct with respect to the building, structure, site, area or object.

(Ord. passed 3-27-1998)

§ 36.16 DELAY IN DEMOLITION OF LANDMARKS AND BUILDINGS WITHIN HISTORIC DISTRICTS.

(A) (1) An application for a certificate of appropriateness authorizing the demolition, removal or destruction of a designated landmark or a building, structure or site within a historic district may not be denied except as provided in division (C) below. However, the effective date of a like certificate may be delayed for up to 365 days from the date of approval.

(2) The period of delay shall be reduced by the Historic Preservation Commission if it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from the property by virtue of the delay.

(3) During the delay period the Commission shall negotiate with the owner in an effort to find a means of preserving the building, structure or site.

(4) If the Commission finds that a building, structure or site has no special significance or value toward maintaining the character of a district, it shall waive all or part of the period of delay and authorize earlier demolition or removal.

(5) If the Commission has voted to recommend the designation of a landmark or the designation of an area as a historic district, and final designation has not been made by the Town Council, the demolition or destruction of any building, structure or site in the proposed district or of the designated landmark may be delayed by the Commission for up to 180 days or until the Town Council takes final action on the designation, whichever occurs first.

(B) The Town Council may enact an ordinance to prevent the demolition by neglect of any designated landmark or any structure or building within a established historic district. The ordinance shall provide appropriate safeguards to protect property owners from undue hardship.

(C) An application for a certificate of appropriateness authorizing the demolition of a building, structure or site 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.

(Ord. passed 3-27-1998)