

ARTICLE E. HISTORIC DISTRICTS COMMISSION

Sec. 10-1051. - PURPOSE.

The historical heritage of Raleigh and Wake County is among their most valued and important assets. The *City* is authorized by the North Carolina General Statutes, by means of listing, regulation, and acquisition, to safeguard the heritage of the *City* by preserving any *property* or district that embodies important elements of its culture, history, architectural history, or prehistory, and to promote the use of and conservation of historic districts for the education, pleasure and enrichment of the residents of the *City* and state as a whole. The purpose of these regulations is to provide the organizational vehicle by which certain areas, structures, buildings, and objects within the *City's* planning jurisdiction that have special significance in terms of history, prehistory, architecture, archaeology, and/or culture and possess integrity of design, setting, materials, feeling and association *may* be preserved and protected.

(Ord. No. 1992-66-TC-399-TC-15-92, §2, 10-6-92)

Annotation: A-S-P Associates v. City of Raleigh, 298 N.C. 207, 230, 258 S.E. 2d 244(1979). The police power encompasses the right to control the exterior appearance of private *property* when the object of such control is the preservation of *the State's* legally or historically significant structures.

Sec. 10-1052. - ESTABLISHMENT AND COMPOSITION, DUTIES, AND PROCEDURE.

(a) Establishment and Composition:

The Raleigh Historic Districts Commission consists of twelve (12) members, appointed for uniform overlapping two-year terms. A majority of the members of the districts commission *shall* have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. All members of the districts commission *shall* reside either within the *City's* corporate limits or within its extraterritorial jurisdiction area. At least one-fourth ($\frac{1}{4}$) of the districts commission's membership *shall* either reside or own *property* in an Historic Overlay District or that is designated as a Raleigh *Historic Landmark*. The commission *may* appoint advisory bodies and committees as appropriate. In event of a vacancy, the City Council *shall* appoint a new member within sixty (60) days; members *shall* serve until their successors have been appointed.

(b) Duties:

The powers of the Historic Districts Commission *shall* be to:

- (1) Undertake an inventory of *properties* of historical, prehistorical, architectural, archaeological, and/or cultural significance.
- (2) Recommend to the City Council districts or areas to be designated by ordinance as Historic Overlay Districts; and, to the extent that the County Historic Preservation Commission does not have jurisdiction, recommend individual structures, buildings, sites, areas, or objects to be designated by ordinance as an historic landmark. When the County Historic Preservation Commission has jurisdiction for historic landmarks within the *City's* zoning jurisdiction, the Historic Districts Commission may provide comment at the public hearing at which such designation is considered.
- (3) Recommend to the City Council that designation of any area as an Historic Overlay District or part thereof be revoked or removed for cause; and, to the extent that the County Historic Preservation Commission does not have jurisdiction, recommend that designation of individual structures, buildings, sites, areas, or objects as historic landmarks be revoked or removed for cause. When the County Historic Preservation Commission has jurisdiction for historic landmarks within the *City's* zoning jurisdiction, the Historic Districts Commission may provide comment at the public hearing at which such revocation or removal is considered.
- (4) Restore, preserve, and operate historic properties.
- (5) Conduct an educational program with respect to historic properties and districts within its jurisdiction.
- (6) Cooperate with the State, Federal, and local governments in pursuance of the purposes of G.S. 160A-400.1 *et seq.* The City Council, or the commission, when authorized by the City Council, 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.
- (7) Request the advice and assistance of any officer or agency of the governing body with respect to any matter arising under its purview.

- (8) Enter, solely in performance of its official duties and only at reasonable times, upon private land for examination or survey thereof. However, no member, employee or agent of the commission may enter any private building or structure without either the express consent of the owner or occupant thereof or authority of law.
- (9) Conduct any meetings or hearings necessary to carry out the responsibilities of the commission.
- (10) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within any established Historic Overlay District or to any such properties designated by the City as historic 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 that will secure appropriate rights of public access and promote the preservation of the property. All lands, buildings, or structures acquired by the Historic Districts Commission from funds other than those appropriated by the City Council may be acquired and held in the name of the Historic Districts Commission, the City, or both.
- (11) Recommend to the City Council acquisition of the fee or any lesser included interest (including public access), preservation easements, and other covenants of historic property. The City Council may make appropriations therefor and own such property under the following conditions:
 - a. **Acquisition:**

Within the limits of its jurisdiction for planning and regulation of development the City Council *may* acquire *properties* within Historic Overlay Districts and/or *properties* designated as *historic landmarks*. In the event the *property* is acquired but is not *used* for some other governmental purpose, it *shall* be deemed to be "museum" under the provisions of General Statutes notwithstanding the fact that the *property* may be or remain in private use, so long as the *property* is made reasonably accessible to and open for visitation by the general public.
 - b. **Ownership:**

All lands, buildings, structures, sites, areas, or objects acquired by funds appropriated by the City Council *shall* be acquired in the name of the *City* unless otherwise provided by the City Council. So long as owned by the *City*, historic *properties* may be maintained by or under the supervision and control of the *City*.
- (12) Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.
- (13) Take steps, during the period of postponement of demolition of any historic landmark or property within an Historic Overlay District, to ascertain what the City Council can or may do to preserve such property, including consultation with private civic groups, interested private citizens, and other public boards or agencies, and including investigation of potential acquisition by the City Council when the preservation of a given historic property is clearly in the interest of the general welfare of the community and such property is of certain historic and architectural significance.
- (14) Propose to the City Council changes to this article or any other ordinance, and propose new ordinances or laws relating to historic landmarks and the Historic Overlay District or relating to a total program for the protection and/or development of the historic resources of the City and its environs.
- (15) Study and recommend to the City Council means by which historic preservation efforts can be coordinated and strengthened.
- (16) Study and recommend revisions to the historic preservation element of the comprehensive plan.
- (17) Review and act upon proposals for alterations, restoration, reconstruction, relocation, demolition, or new construction within an Historic Overlay District, pursuant to procedures established in the Zoning Code for the Historic Overlay District; and, to the extent that the County Historic Preservation Commission does not have jurisdiction, for proposals for alteration, reconstruction, restoration, relocation, new construction, or demolition of designated historic landmarks outside an Historic Overlay District, pursuant to procedures outlined in §10-2052.
- (18) Report violations of this article, or other ordinances affecting historic landmarks and properties within Historic Overlay Districts, to the appropriate enforcement agency.
- (19) Accept funds to be used for preservation purposes that are granted to the commission by private individuals, organizations, and local governing bodies.
- (20) Receive appropriations as may be made to the commission by the City Council.

(c) Procedure:

The Historic Districts Commission is directed to adopt rules of procedure necessary to the conduct of its affairs and in keeping with the provision of this Code, all policies of the City Council, and applicable state laws. Such rules of procedure, and any modifications to same, *shall* be submitted to the City Council for review and approval. Except as provided in this Code, the rules of procedure adopted by the commission *shall* at least provide for: selection of the *officers* of the commission; the time and place of its regular meetings, which *shall* at least be held monthly, and the calling of special meetings; the procedures for the conduct of public hearings and voting. The districts commission *shall* elect from its membership at least a chairperson and Vice-Chairperson, who *shall* serve for terms of one (1) year, who *shall* be eligible for reelection, and who *shall* have the right to vote. The chairperson *shall* preside over the districts commission. In the absence or disability of the chairperson, the Vice-Chairperson *shall* perform the duties of the chairperson. All meetings of the districts commission *shall* be open to the public, in accordance with the North Carolina Open Meetings Law, G.S. 143-318.10 *et seq.*, and a public record *shall* be kept of the commission's resolutions, proceedings, and actions. The rules of procedure and minutes of the commission are maintained as separate documents in the nature of a public record at the office of the commission. The Planning Department *shall* provide such technical, administrative, and clerical assistance as required by the commission.

(Ord. No. 1992-66-TC-399-TC-15-92, §2, 10-6-92; Ord. No. 2001-26-TC-208, §1, TC-5-01, 6-19-01; Ord. No. 2009-531-TC-319, §1, TC-15-08, 1-22-09)

Editor's note: The Historic Districts Commission always has jurisdiction for certificates of appropriateness for the exterior of all *properties* (including *historic landmarks*) within the Historic Overlay District. The Historic Districts Commission will also have jurisdiction for *historic landmarks* outside the Historic Overlay District and within the *City's* zoning jurisdiction when there is no interlocal agreement with the *County* delegating such administration to the County Historic Preservation Commission. The County Historic Preservation Commission will have jurisdiction over all designated interior spaces, unless there is no interlocal agreement with the *County* delegating such administration to the County Historic Preservation Commission.

Sec. 10-1053. - ADOPTION OF ORDINANCES DESIGNATING HISTORIC LANDMARKS WHEN THE HISTORIC DISTRICTS COMMISSION HAS JURISDICTION.

In the absence of an interlocal agreement giving the County Historic Preservation Commission jurisdiction to review reports for *historic landmarks* within the *City's* zoning jurisdiction, the Historic Districts Commission *shall* review such reports. *Following* Historic Districts Commission review and recommendation, the City Council *may* adopt, amend, reject, or repeal ordinances designating *historic landmarks* that meet the *following* criteria, when those ordinances contain the *following* elements and when adoption or amendment is pursuant to the *following* procedure:

(a) Criteria for designation:

No building, structure, site, area, or object *shall* be recommended for designation as an *historic landmark* unless it is deemed and found by the Historic Districts Commission to be of special significance in terms of its historical, prehistorical, architectural, archaeological, and/or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

(b) Elements of ordinances designating historic landmarks :

Ordinances designating *historic landmarks* *shall* contain the *following* elements which *shall*:

- (1) Describe each property designated in the ordinance, including the approximate area of the property so designated.
- (2) List the name or names of the owner or owners of the property.
- (3) Describe those elements of the property that are integral to its historical, prehistorical, architectural, archaeological and/or cultural significance.
- (4) Describe the nature of the commission's jurisdiction over the interior, if any, and those interior features of the property to be reviewed for certificates of appropriateness if they are to be changed.
- (5) Require, for each building, structure, site, area, or object designated as an historic landmark that the waiting period set forth in the general statutes be observed prior to its demolition.

- (6) Provide, for each designated historic landmark, a suitable sign or plaque indicating that the property has been so designated. If the owner consents, the sign or plaque shall be placed upon the property; if the owner objects, the sign or plaque shall be placed on a nearby public right-of-way.
 - (7) Recite any other information the governing body deems necessary within the authority conferred by the General Statutes.
- (c) **Procedure for adopting or amending historic landmark ordinances:**
- Ordinances designating *historic landmarks* shall be adopted and amended according to the *following* procedure:
- (1) The Historic Districts Commission shall make, or cause to be made, an investigation and report on the historical, prehistorical, architectural, archaeological and/or cultural significance of each building, structure, site, area, or object proposed for designation. Applications prepared by owners will be judged by the same criteria as those prepared by the Commission. Such reports shall contain the following information:
 - a. The name of the *property* to be considered for designation—both common and historic names, if they can be determined.
 - b. The name and address of the current *property* owner.
 - c. The location of the *property* proposed to be designated historic, including the *street* address and *County* tax map and parcel numbers or the parcel identification number.
 - d. The date of construction and of any later alterations, if any.
 - e. An assessment of the significance of the site or structure pursuant to §10-1053(a).
 - f. An architectural or archaeological description of the area of the site or structure proposed to be designated. If outbuildings or other appurtenant features are proposed to be designated, the report *shall* contain a description of those features.
 - g. An historical discussion of the site or structure within its type, period, and locality.
 - h. Black and white photographs and color slides that clearly depict the *property* proposed to be designated, including views of all facades, pertinent details and siting.
 - i. A map showing the location of the *property*, including any outbuildings and appurtenant features.
 - (2) The commission shall forward its recommendation to the City Council. The Council shall refer the report to the State department of cultural resources, division of archives and history.
 - (3) The department of cultural resources, acting through the State historic preservation officer or his or her designee, may make an analysis of and recommendations concerning the report. If the department does not submit its written comments or recommendations in connection with any proposed designation within thirty (30) days following a written request for such analysis has been received by the department, the commission and the City Council shall be relieved of any responsibility to consider such comments.
 - (4) The Historic Districts Commission and the City Council shall hold a joint public hearing on the proposed ordinance. Notice of the hearing shall be published at least once in a newspaper generally circulated within the City. Written notice of the hearing shall also be mailed by the districts commission to all owners and occupants of properties whose identity and current mailing address can be ascertained by the exercise of reasonable diligence. All such notices shall be published or mailed not less than ten (10) nor more than twenty-five (25) days prior to the date set for the public hearing. The mailed notices in this subsection are for the convenience of property owners and occupants and any defect or their omission therein shall not impair the validity of the public hearing or any action following therefrom.
 - (5) Following the joint public hearing, the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposal. If the City Council rejects a designation report, a copy of the minutes of the meeting at which such a decision to reject the report was made shall be mailed to the owner of the property proposed for designation.
 - (6) Upon adoption of the ordinance or any amendments thereto, the owners and occupants of each designated historic property shall be given written notification of such designation insofar as reasonable diligence permits. One (1) copy of the ordinance and each amendment thereto shall be filed by the Historic Districts Commission in the office of the County Register of Deeds. Each historic property designated as an historic landmark in the ordinance 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 Historic Districts Commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and of each amendment thereto shall be kept on file in the City Clerk's office and shall be made available for public inspection at any reasonable time. A third copy of the ordinance and each amendment thereto shall be given to the director of the Inspections Department.

- (7) Upon adoption of the ordinance or any amendments thereto, it shall be the duty of the Historic Districts Commission to give notice thereof to the County tax assessor. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the assessor in appraising it for tax purposes. The fact that a building, structure, site, area, or object has been designated an historic landmark shall be clearly indicated on all tax maps maintained by the County or City for such period as the designation remains in effect.

(d) Limitations on interior designation and review:

Jurisdiction of the commission over interior spaces *shall* be limited to specific interior features of architectural, artistic, or historical significance in publicly owned *historic landmarks*, and of privately owned historic landmarks for which consent for interior review has been given by the *owner*. If an *owner's* consent has been filed in the office of the County Register of Deeds and indexed according to the name of the *owner* of the *property* in the grantee and grantor indexes, such consent *shall* bind future *owners* and/or successors in title. The ordinance establishing the historic designation *shall* specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over those features.

(Ord. No. 1992-66-TC-399-TC-15-92, §2, 10-6-92; Ord. No. 2001-26-TC-208, §1, TC-5-01, 6-19-01)

Sec. 10-1054. - EFFECT OF ORDINANCES DESIGNATING HISTORIC LANDMARKS.

In the absence of an interlocal agreement giving the County Historic Preservation Commission authority to issue certificates of appropriateness for *historic landmarks* within the *City's* zoning jurisdiction and outside the Historic Overlay District, the provisions of §10-2052(a) through (e) *shall* apply to such *historic landmarks*, and *shall* be administered by the Historic Districts Commission.

(Ord. No. 1992-66-TC-399-TC-15-92, §2, 10-6-92; Ord. No. 2001-26-TC-208, §1, TC-5-01, 6-19-01)

Sec. 10-1055. - REMEDIES.

In case any building, structure, site, area, or object designated an *historic landmark* or located within an Historic Overlay District is about to be demolished, whether as a result of deliberate neglect or otherwise, materially altered, restored, remodeled, constructed, removed, or destroyed, except in compliance with the governing ordinance, the Historic Districts Commission, or other party aggrieved by such action *may* institute any appropriate action or proceedings to prevent such 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 such historic designation. Such remedies *shall* be in addition to any others authorized by this Code.

(Ord. No. 1992-66-TC-399-TC-15-92, §2, 10-6-92; Ord. No. 2001-26-TC-208, §1, TC-5-01, 6-19-01)

Cross reference: Historic Overlay District, §10-2052 *et seq.*

State law reference: Historic Districts and Landmarks, G.S. 160-400.1 *et seq.*

Secs. 10-1056 — 10-1060. - RESERVED.