

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

- A.** A SOC 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 any structures.
- B.** A SOC or COA may be issued subject to reasonable conditions necessary to carry out the purposes of this Article.
- C.** A SOC or COA is required whether or not a building permit or other permit is required.
- D.** Exception: Ordinary maintenance or repair of the exterior features of a building does not require approval through the SOC or COA process. Ordinary maintenance or repair includes only such work as does not involve a change in design, material, or appearance of any exterior features of a building or other structure. Proposals to engage in ordinary maintenance or work must be submitted for review pursuant to such

process(es) as the Administrator may require to confirm whether or not the activity meets the standards for the exception.

- 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, Ord. PL05504-021822, 06-08-2022)

8.04 Statement of Conformity for Minor Work

8.04.01 Upon application, the Administrator may issue a Statement of Conformity (SOC) 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 SOC 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.** Minor works that may be approved pursuant to issuance of a SOC include by way of example, but are not limited to the examples described as minor work at Table 8.05.03 below.
- C.** When the Administrator determines that an application for approval of a SOC involves major work or otherwise does not meet the requirements for SOC approval, or presents factual or legal issues or matters of discretion not appropriately determined by staff, 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 **Reserved.**

8.04.03 **Applications.**

- A. Pre-Application Consultation.** Pursuant to UDO Subsection 4.04, a pre-application consultation between the applicant and Staff is strongly encouraged in order to minimize development planning costs, avoid misunderstandings or misinterpretations, and ensure compliance with the requirements of this Ordinance.
- B.** In addition to meeting the requirements of Appendix A as applicable, applications shall include:
 - 1. **Written description of the proposed work:** The application shall 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:** The application shall cite the applicable sections of the design standards related to and/or reflected in the proposed request.
 - 3. **Photographs of Existing Conditions:** The application shall include contemporaneous photographs showing the current conditions of the area where the work will be

completed and/or the portions of any existing building or other structure(s) that will be affected by the proposed work.

4. Site Plan: For development which includes modifications to the site in addition to a structure, the applicant shall provide scaled drawings prepared in accordance with UDO Appendix A. These drawings should depict at least the relationship of all existing structures, driveways, sidewalks, fences, drains, lighting, and trees to the property lines and identify the location of any and all proposed changes. Tree caliper sizes 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, Ord. PL05419-010622, 02-09-2022, Ord. PL05504-021822, 06-08-2022)

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 requires 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 works that must be approved pursuant to issuance of a COA include by way of example, but are not limited to the examples set forth at Table 8.05.03 below.

8.05.03 Table of Minor Work and Major Work in the Historic District

Description of Work	Routine Maintenance	Minor Work (SOC)	Major Work (COA)
New construction of or additions to structures, except as specifically provided otherwise herein.			X
Accessory Buildings			
In-kind ¹ repair of existing accessory building	X		
In-kind replacement of existing, non-contributing accessory building		X	
Demolition of an existing, non-contributing accessory building		X	
New construction, modification or an addition to an accessory building on a tertiary elevation not visible from a public street		X	
All other alterations ²			X
ADA			
In-kind repair or replacement of existing ADA features	X		
Installation of temporary accessibility ramps		X	

Description of Work	Routine Maintenance	Minor Work (SOC)	Major Work (COA)
Installation of ADA-required features on tertiary elevations not visible from a public street		X	
All other alterations			X
Architectural Features (not to include items specifically addressed in other categories) (may include but are not limited to cornices, friezes, medallions, sunbursts, brackets, bays, turrets, fascias, decorative moldings, quoins, columns, brickwork, string courses)			
In-kind repair/replacement of any existing architectural feature	X		
Addition, removal, or alteration of an architectural feature on tertiary elevation not visible from a public street		X	
All other alterations			X
Awnings, Canopies, or Shutters			
In-kind repair/replacement of an existing awning, canopy or shutters	X		
Addition of awnings, canopies or shutters on tertiary elevation not visible from a public street		X	
Removal of an awning, canopy or shutters on a non-contributing structure		X	
All other alterations			X
Decks, Patios, and Sidewalks			
In-kind repair/replacement of an existing deck, patio, or sidewalk; addition of public sidewalks	X		
Additions of decks, patios, and sidewalks on tertiary elevations		X	
All other alterations			X
Demolition and Relocation			
Except as otherwise specifically provided herein, any removal, relocation, or demolition of any structure or part thereof			X
Removal/alteration of archaeologically significant features			X
Any work that is likely to disrupt or damage known or discovered archaeological resources on the site			X
Doors & Windows			
In-kind repair/replacement of any door or window, including casing, frames, and trim	X		
Installation of storm windows where divided mullions of storm windows and doors align with windows and doors behind	X		
Installation of skylights within a tertiary elevation or where the skylight is not publicly visible		X	
Addition, removal, or modification of a door or window on tertiary elevations not visible from public street		X	
All other installation, removal, addition or modification of doors or windows, including construction of new openings and replacement, removal, or modification of existing openings			X
Driveways			
In-kind repair/replacement of an existing driveways	X		
Additions/alterations of driveways on tertiary elevations		X	
All other alterations			X
Fences			
In-kind repair/replacement of existing fence	X		
Additions/alterations of fences on tertiary elevations or not visible from public streets		X	

Description of Work	Routine Maintenance	Minor Work (SOC)	Major Work (COA)
All other alterations			X
Exterior Surfaces Materials (Masonry, Siding, etc.)			
In-kind repairs/replacement, including repointing, to existing exterior surfaces when the material, color, composition of the new material matches the existing exterior surface (includes requirement that the composition of mortar match the original)		X	
All other alterations			X
Foundations			
In-kind repair of a foundation	X		
Alteration of a foundation on a tertiary elevation not visible from a public street		X	
All other alterations			X
Gutters and Downspouts			
In-kind repair/replacement of gutters and downspouts	X		
Installation of gutters and downspouts that match the house or trim color as long as no historic features are damaged or removed.		X	
Removal of gutters or downspouts that are not historic to the building		X	
All other alterations			X
Landscaping			
Insignificant landscaping including vegetable and flower gardens and shrubbery	X		
Pruning of trees and/or shrubbery	X		
Removal of trees less than 25 inches in diameter	X		
Removal of trees that are dead, dangerous per adequate documentation from licensed arborist	X		
Removal of any invasive species (landscape material) as listed on the Invasive Plants Found in the Mountains of North Carolina list published by the NC Invasive Plant Council	X		
Removal of any tree 25 inches or greater, unless documented as dead or dangerous			X
Mechanical Systems/Equipment			
In-kind repair/replacement of any existing mechanical systems, vents, and related equipment	X		
Removal of existing mechanical systems, vents and related equipment		X	
Installation of mechanical systems, vents, and related equipment on tertiary elevations		X	
Installation of window air conditioners		X	
All other installations			X
Painting			
In-kind repair/re-painting of a previously-painted surface	X		
All other painting, including the painting of exterior surfaces not previously painted			X
Parking Lots			
In-kind repair/replacement of existing parking lots	X		
Insubstantial alterations of existing parking lots and removal of non-historic parking lots		X	

Description of Work	Routine Maintenance	Minor Work (SOC)	Major Work (COA)
All other alterations			X
Public Art			
In-kind repair/maintenance of previously-approved and installed public art	X		
Replacement of previously-approved and installed public art with artwork of essentially identical mass, proportions, and general features (e.g., a statue replacing a statue, or one mural design replacing another)		X	
New installation or substantial modification of public art in the local historic district			X
Roofs			
In-kind repair/replacement of roof coverings	X		
Repair/replacement of roof coverings not publicly visible		X	
All other alterations, including any modification of roof line			X
Satellites			
In-kind repair/replacement of existing satellite dishes	X		
Addition of satellite dishes on tertiary elevations		X	
Removal of satellite dishes		X	
All other alterations			X
Signs			
In-kind repair/replacement of an existing permanent sign	X		
Addition/alteration of temporary sign or approved historic house marker		X	
Addition/alteration of permanent sign on a non-contributing building		X	
Addition/alteration of permanent sign on a contributing building		X	
Removal of non-historic permanent sign		X	
Removal of historic permanent sign			X
Solar			
In-kind repair/replacement of an existing solar energy system	X		
Addition/alterations of solar panels on tertiary elevations		X	
Removal of solar panels		X	
All other alterations			X
Miscellaneous			
Installation of house numbers and mailboxes	X		
Establishment of exterior fire exits on tertiary elevations		X	
Establishment of exterior fire exits on secondary and primary elevations			X

Notes:

1. “In-kind” means having no change in the design, construction method and materials, and general appearance of the existing or original historic feature.
2. “Alteration” means and includes new construction or installation, modifications, additions, removal or demolition, and any other material change.

8.05.04 Applications

A. Pre-application Consultation. Pursuant to UDO Subsection 4.04, a pre-application consultation between the applicant and Staff is strongly encouraged in order to

minimize development planning costs, avoid misunderstandings or misinterpretations, and ensure compliance with the requirements of this Ordinance. At this meeting, Staff shall inform applicants on application requirements and provide assistance on identifying possible resources to obtain historic information.

- B.** In addition to the meeting the requirements of Appendix A as applicable, applications shall include:
1. **Written description of the proposed work:** The application shall 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:** The application shall cite the applicable sections of the design standards related to and/or reflected in the proposed project.
 3. **Photographs of Existing Conditions:** The application shall include contemporaneous photographs showing the current conditions of the area where the work will be completed and/or the portions of any existing building or other structure(s) that will be affected by the proposed work.
 4. **Site Plan:** The application shall provide scaled drawings showing the relationship of all existing structures, driveways, sidewalks, fences, drains, lighting, and trees to the property lines and identify the location of any and all proposed changes. Tree caliper sizes 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:** The application shall provide architectural drawings showing all elevations, including scale, where proposed work will occur.
 7. **For Projects Involving Demolition or Relocation:** The application shall 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; Ord. PL05502-021822, 04-13-2022, Ord. PL05504-021822, 06-08-2022)

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 (COA) 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 8.08.03.

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. The 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.
2. 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.
3. The Historic Preservation Commission may consider waiving or reducing the delay period on such conditions as it deems appropriate and reasonable.
4. The Historic Preservation Commission may require that the applicant or owner, at their cost, document the structure thoroughly through photographic, narrative, and other appropriate documentation.
 - a. Documentation should include photographs, site and/or floor plan, and descriptions of exterior and interior features of the structure, design, special

architectural features, materials, layout, conditions of the building, important landscape features, streetscapes, other structure(s) on site, and archeological significance of the site. Documentation shall be provided by a historic preservation consultant or professional listed by the North Carolina State Historic Preservation Office, resulting in a report that complies with Historic American Buildings Survey (HABS) guidelines.

- b. Planning Staff will provide the owner, the applicant, or the legal representative a list of consultants provided by the North Carolina State Historic Preservation Office (SHPO) or preservation affiliates.
 - c. Documentation, including a complete set of photographs and all other documentary materials, shall be submitted to Planning and Inspections Staff for preservation by the Town. The adequacy of the report will be considered by the HPC during its next available quasi-judicial hearing; the report must be considered satisfactory by the HPC prior to issuance of a COA.
- B.** During any delay period, the Historic Preservation Commission shall negotiate with the applicant and/or owner to find a means of preserving the building or site.
- 1. When considering demolition of a historic building, the property owner is encouraged to seek all reasonable alternatives. Alternatives may include (but are not limited to):
 - a. Adapting or renovating the property to suit the owner's needs including pursuit of federal and state rehabilitation tax credits to offset the cost of such renovation.
 - b. Selling the property to someone willing to preserve the building.
 - c. Consulting a historic preservation professional or the North Carolina State Historic Preservation Office for suggestions of alternative possibilities.
 - 2. In the COA application, the applicant shall document all alternatives that are investigated and/or attempted.
 - 3. If the applicant contends that a historic structure lacks structural integrity and cannot reasonably be repaired or reconstructed, the applicant should submit competent evidence of the same, which may require the analysis and testimony of one or more experts in the relevant fields.

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 COA authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Office 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.
- 8.08.04** In reviewing a request to demolish a building in the district, the HPC also considers whether demolition will adversely affect other buildings in the district or the overall character of the district.
- 8.08.05** **Relocation within the Historic District:** Relocation is considered to be a “last resort” to demolition. Most historic buildings are strongly associated with the original site; therefore, relocation could threaten the historic integrity of a property. Relocation requires the HPC’s consideration.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05718-051822, 07-27-2022)

