

## Chapter 28 HISTORIC PRESERVATION<sup>1</sup>

### ARTICLE I. IN GENERAL

#### Sec. 28-1. Purpose of chapter.

The historical heritage of the city is one of its most valued and important assets. Conservation of historic properties will stabilize and increase property values in their areas and strengthen the overall economy of the city, county and state. By means of listing, regulation and acquisition of historic properties, the city seeks, within its zoning jurisdiction, to:

- (1) Safeguard its heritage by preserving any property therein that embodies important elements of its culture, history, architectural history or prehistory; and
- (2) Promote the use and conservation of such district or landmark for the education, pleasure and enrichment of the residents of the city, county and state as a whole.

(Code 1971, § 13½-1)

#### Sec. 28-2. Conflict with other laws.

Whenever this chapter requires a longer waiting period or imposes other higher standards with respect to a designated historic property than are established under any other Charter provision, regulation or ordinance, this chapter shall govern. Whenever the provisions of any other Charter provision, ordinance or regulation require a longer waiting period or impose other higher standards than are established under this chapter, such other Charter provision, ordinance or regulation shall govern.

(Code 1971, § 13½-2)

#### Sec. 28-3. Remedies.

In case any building, structure, site, area or object designated as a historic landmark or located within a historic district designated pursuant to this chapter is about to be demolished, whether as the result of deliberate neglect or otherwise, materially altered, remodeled or removed, except in compliance with this chapter, the city, the historic preservation commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, material alteration, remodeling or removal, to retrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area

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<sup>1</sup>Cross reference(s)—Buildings and building regulations, ch. 12Cross reference(s)—; environment, ch. 20Cross reference(s)—; designation of historic districts, § 28-11 et seq.; housing, ch. 30Cross reference(s)—; manufactured homes and trailers, ch. 34Cross reference(s)—; planning and development, ch. 40Cross reference(s)—; streets, sidewalks and other public places, ch. 46Cross reference(s)—; heritage trees, § 46-124Cross reference(s)—; zoning ordinance, app. A; subdivisions, app. B.

State law reference(s)—Historic districts and landmarks, G.S. ~~160A-400.1~~ 160D-940 et seq.

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or object. Such remedies shall be in addition to any others authorized by this chapter for violation of a municipal ordinance.

(Code 1971, § 13½-3)

#### **Sec. 28-4. Applicability to publicly owned buildings, sites, etc.**

All of the provisions of this chapter are applicable to construction, alteration, moving and demolition by the state, its political subdivisions, agencies and instrumentalities; provided, however, that they shall not apply to interiors of buildings or structures owned by the state. The state shall have a right of appeal to the state historical commission, or as otherwise specified by state law.

(Code 1971, § 13½-4)

#### **Sec. 28-5. Acquisition by city; authority.**

Within the limits of its zoning jurisdiction, the city council (and, with the approval of the city council, the historic preservation commission) may acquire property designated as a historic landmark or located within a historic district designated pursuant to this chapter and may pay therefor out of any funds which may be appropriated for that purpose. The city has the authority to acquire, maintain, manage, repair, restore, exchange or dispose of any such property. If the property is acquired under this section but is not used for some other governmental purpose, it shall be deemed to be a "museum," 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.

(Code 1971, § 13½-5)

#### **Sec. 28-6. Ownership of property.**

All lands, buildings, structures, sites, areas or objects acquired by funds appropriated by the city shall be acquired in the name of the city unless otherwise provided by the city council. So long as owned by the city, such historic properties may be maintained by or under the supervision and control of the city. However, all lands, buildings or structures acquired by the historic preservation commission from funds other than those appropriated by the city may be acquired and held in the name of the historic preservation commission, the city, or both.

(Code 1971, § 13½-6)

#### **Sec. 28-7. Definitions.**

As used in this Chapter 28, the following words shall have the means stated:

Administrative Decision means decisions made in the implementation, administration, or enforcement of this Chapter that involve the determination of facts and the application of objective standards set forth in this Chapter, or other land development regulations as applicable.

Administrative Hearing means a proceeding to gather facts needed to make an Administrative Decision.

Determination means a final, written and binding order, requirement, or determination regarding an administrative decision.

Development Approval means an administrative or quasi-judicial approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal.

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Development Regulation means this Chapter 28 and any City ordinance adopted pursuant to the authority of North Carolina General Statutes Chapter 160D, as the same may be amended, and also including any local act and provisions of the City charter that regulate land development.

Evidentiary Hearing means a hearing by the commission to gather competent, material and substantial evidence in order to make findings for a quasi-judicial decision required by this Chapter. An Evidentiary Hearing is also considered a public hearing. An Evidentiary Hearing is conducted in accordance with the terms of this Chapter and N.C.G.S. Section 160D-406 Quasi-judicial procedure.

G.S. or N.C.G.S. means the North Carolina General Statutes.

Legislative Hearing means a hearing held for the purpose of soliciting public comments on a proposed ordinance or development regulation. Reasonable time limits on speakers may be imposed and responsible decorum maintained. However, unlike quasi-judicial hearings, there is no requirement for oaths, no limits on expression of personal opinions, and no limit on discussing the matter outside the context of the hearing

Owner means the holder of the title in fee simple. Absent evidence to the contrary, the City will rely on the tax records for Henderson County to determine who is the Owner. As used herein, "Owner" refers to all holders of the title in fee simple of a parcel of real property. The Owner may authorize a person holding a valid option, lease, or contract to purchase to act as his/her agent or representative for the purpose of making applications for development approvals.

Planning and Development Regulation Jurisdiction means the City of Hendersonville corporate limits and the extraterritorial jurisdiction of the City of Hendersonville.

Quasi-judicial Decision means a decision involving the finding of facts regarding a specific application of a development regulation or standard adopted by the Historic Preservation Commission authorized by this Chapter and that requires the exercise of discretion when applying the regulation or the standards adopted. The term includes, but is not limited to, decisions involving variances, certificates of appropriateness and appeals of administrative determinations.

Zoning Board of Adjustment shall mean the Board of Adjustment for the City of Hendersonville duly created and authorized pursuant to G.S. 160D-302.

Zoning Map shall mean the Official Zoning Map for the City of Hendersonville.

Zoning Ordinance shall mean the Official Zoning Ordinance for the City of Hendersonville.

## **Sec. 28-8. Administration, Enforcement and Appeals.**

(1) This Chapter shall be administered by City staff, in particular the commission coordinator and the zoning administrator, in accordance with G.S. 160D-403, except to the extent superseded or otherwise provided in G.S. Chapter 160D, Article 9, or other applicable law.

(2) This Chapter shall be enforced by the commission coordinator and the zoning administrator in accordance with the requirements of G.S. 160D-404 and other applicable Sections of this Chapter, except to the extent superseded or otherwise provided in G.S. Chapter 160D, Article 9, or other applicable law. In enforcing the Chapter all methods of enforcement and remedies provided by this Chapter, and all other available enforcement methods and remedies at law or in equity, and any combination of any of the foregoing, shall be authorized for use in the enforcement of this Chapter. The use of one enforcement method or remedy shall not preclude the use of any other enforcement method or remedy authorized by this Chapter, or available at law or in equity.

(3) An appeal of a determination made pursuant to this Chapter may be taken as follows:

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- (a) An appeal of an administrative determination by staff may be appealed to the commission in accordance with the requirements of G.S. 160D-405.
  - (b) An appeal of a quasi-judicial decision of the commission may be made pursuant to G.S. 160D-1402.
  - (c) Any person aggrieved shall also have such remedies as are provided in Article 14 of Chapter 160D of the North Carolina General Statutes.
  - (4) Any person aggrieved by a legislative decision rendered by city council shall have such remedies as are provided in Article 14 of Chapter 160D of the North Carolina General Statutes.

**Secs. 28-~~97~~—28-40. Reserved.**

## **ARTICLE II. HISTORIC PRESERVATION COMMISSION<sup>2</sup>**

### **Sec. 28-41. Organization; membership.**

- (a) *Creation; compensation; appointments.* There is hereby established, by the authority of G.S. ~~160A-400.1~~ 160D-940 et seq., and G.C. 160D-303 the city historic preservation commission, hereafter referred to as "the historic preservation commission," or "commission," to consist of nine members appointed by the city council. The commission shall serve without monetary compensation. In establishing the commission and making appointments to it, the city council may seek the advice of such state or local historical agencies, societies or organizations as it may deem appropriate.
- (b) *Qualifications of members.* All members of the historic preservation commission shall be residents of, ~~or owners of real property situated within,~~ the territory subject to the zoning jurisdiction of the city, and a majority of the members shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields; ~~provided, however, that no more than three persons shall serve as regular members at one time, which persons are eligible for membership solely as landowners within the zoning jurisdiction.~~
- (c) *Tenure.* Members of the historic preservation commission shall serve overlapping terms of three years. The initial members shall serve staggered terms; thereafter, all appointments shall be for a term of three years. Notwithstanding the foregoing, the city council may remove any member of the historic preservation commission for the exhibition of a pattern of conduct that materially impairs or seriously threatens the ability of the commission to carry out its designated functions.
- (d) *Rules of procedure; annual report.* The historic preservation commission shall adopt rules of procedure for the conduct of its business, and an annual report shall be prepared and submitted by March 1 of each year to the planning board and the city council. Such report shall include a comprehensive and detailed review of the activities, problems and actions of the commission as well as any budget requests or recommendations. The commission shall keep a record of its members' attendance and of its resolutions, findings and recommendations, which record shall be a public record.
- (e) Conflicts of Interest for commission members shall be governed by G.S. 160D-109, and the following:

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<sup>2</sup>Cross reference(s)—Boards, commissions and committees, § 2-226 et seq.

State law reference(s)—Authority to establish an historic preservation commission, G.S. ~~160A-400.7~~ 160D-303; 941.

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(1) When acting in an advisory capacity to consider or recommend a potential legislative decision be made by the city council, members of the commission shall not vote where the outcome of the matter being considered is reasonable likely to have a direct, substantial and readily identifiable financial impact on the member. If the proposed action by city council will amend the official zoning map for the city to adopt a new or amend an existing historic district overlay district, then a member shall not vote on the proposed overlay district adoption or amendment if an owner of the property to be included in the historic overlay district is a person with whom the member has a close familial, business or other associational relationship.

(2) When acting in an administrative capacity to make an administrative decision, no member of the commission shall vote on the decision if the outcome of the matter being considered is reasonable likely to have a direct, substantial and readily identifiable financial impact on the member. A member shall not vote on the administrative decision if the applicant or a person subject to the decision is a person with whom the member has a close familial, business or other associational relationship.

(3) When acting in a quasi-judicial capacity, no member shall participate or vote on any matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

(4) A "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

(e) Conflict of Interest for city staff shall be governed by G.S. 160D-109, and the following:

(1) No staff member shall make a final decision on an Administrative Decision if the outcome or that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the City Manager.

(2) No staff member shall be financially interested in or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved.

(3) No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the City as determined by the City Manager, or if the City Manager as determined by City Council.

(4) For the purposes of this section, a 'close familial relationship' means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

(Code 1971, § 13½-11; Ord. No. 01-1069, § 1, 10-4-01; Ord. No. 07-0526, § 1, 5-3-07; Ord. No. 12-0929, § 1, 9-6-12)

## **Sec. 28-42. Powers.**

The historic preservation commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this chapter and G.S. ~~160A-400.1~~ 160D-942 et seq., including, but not limited to, the following:

(1) ~~As a guide for the identification and evaluation of landmarks, the commission, at the earliest possible time, and consistent with the resources available to it, shall undertake an inventory of properties of~~

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~~historical, architectural, prehistorical and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the division of archives and history.~~ Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance.

- (2) Recommend to the city council areas to be designated by ordinance as an "historic district," and buildings, structures, sites, areas or objects within its zoning jurisdiction to be designated by ordinance as "landmarks." z
- (3) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the same 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.
- (4) Restore, preserve and operate such historic properties.
- (5) Recommend to the city council that the designation of any area as a historic district or part thereof, or designation of any building, structure, site, area or object as a historic landmark be revoked or removed for cause.
- (6) Conduct an educational program with respect to historic properties within its jurisdiction.
- (7) Cooperate with the state, federal and local governments in pursuance of the purposes of this chapter. 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.
- (8) 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 the express consent of the owner or occupant thereof.
- (9) Prepare and recommend the official adoption of a preservation element as part of the municipality's comprehensive plan.
- (10) 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 this chapter.
- (11) Negotiate at any time with the owner of a building, structure, site area, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.
- (12) Accept funds granted to the commission for preservation purposes from private individuals and organizations.
- (13) Adopt by rule design ~~guidelines~~ standards whose purpose shall be to ensure, insofar as possible, that changes in designated historic properties shall be in harmony with the reasons for their designation- per 160D-947 (c).
- (14) Adopt rules of procedure for the conduct of its business- per 160D-947 (c).

(Code 1971, § 13½-12)

State law reference(s)—Similar provisions, G.S. ~~160A-400.8~~ 160D-942.

### **Sec. 28-43. Receipt and expenditure of funds.**

The commission, within the limits of funds appropriated for its use, may expend funds for the operation of the commission affairs and for the acquisition, restoration, preservation, operation and management of buildings,

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structures, sites, areas or objects located within a historic district or designated as such historic landmark, or of land on which such buildings or structures are located or to which they may be removed.

(Code 1971, § 13½-13)

State law reference(s)—Appropriations to historic preservation commissions, G.S. ~~160A-400.12~~ 160D-943.

#### **Sec. 28-44. Staff and technical services.**

The commission may recommend to the city council suitable arrangements for the procurement or provision of staff or technical services to the commission.

(Code 1971, § 13½-14)

#### **Secs. 28-45—28-75. Reserved.**

### **ARTICLE III. DESIGNATION OF LANDMARKS<sup>3</sup>**

#### **Sec. 28-76. Adoption of ordinance of designation.**

- (a) *Generally.* Upon compliance with the procedures set out in subsection (d) of this section, the city council may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. The ordinance shall describe each property designated therein, the name of the owner 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 city 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 chapter be observed prior to its demolition. For each designated landmark, the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right-of-way. No property may be designated as an historic landmark without the written consent of the property owner.
- (b) *Criteria for commission's recommendation of designation.* 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.
- (c) *Required procedures.* No ordinance designating a historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the commission or the city council, until the following procedural steps have been taken:
  - (1) The commission shall prepare and adopt rules of procedure and prepare and adopt principles and ~~guidelines~~ standards not inconsistent with state law or this chapter, for altering, restoring, moving or demolishing properties designated as landmarks.
  - (2) The commission shall make or cause to be made an investigation and report on the historic, architectural, prehistoric educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. ~~Such investigation or report shall be submitted to the~~

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<sup>3</sup>State law reference(s)—Designation of landmarks, G.S. ~~160A-400.5~~ 160D-946.

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~~division of archives and history of the state department of cultural resources.~~ Such investigation or report shall be forwarded to the Office of Archives and History, North Carolina Department of Cultural Resources.

- (3) The ~~department of cultural resources, acting through the state historic preservation officer~~ Department of Cultural Resources, acting through the State Historic Preservation Officer, 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 pursuant to this chapter. Any comments shall be provided in writing. If the department of cultural resources does not submit its comments or recommendations in connection with any designation within 30 days following receipt by the department of the investigation and report of the commission, the commission and the city council shall be relieved of any responsibility to consider such comments.
- (4) The commission and the city council shall hold a joint public legislative hearing or separate public legislative hearings on the proposed ordinance of designation. ~~Reasonable notice of the time and place thereof shall be given.~~ Notice of each legislative hearing held by the city council or the commission, whether held jointly or separately, shall be given in accordance with the requirements of G.S. 160D-601. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, G.S. 143-318.9 et seq. ~~G.S. 160D-601.~~
- (5) Following the joint public legislative hearing or separate public legislative hearings, the city council may adopt the ordinance of designation as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
- (6) Upon adoption of the ordinance of designation, the owners and occupants of each designated landmark shall be given written notification of such designation by the city council, 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 the county. Each designated landmark 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 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 city 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 code enforcement officer. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the city and county for such period as the designation remains in effect.
- (7) Upon adoption of an ordinance designating a landmark or any amendment thereto, it shall be the duty of the commission to give notice thereof to the county tax supervisor. 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.

(Code 1971, § 13½-21; Ord. No. 97-1075, § 1, 12-4-97)

State law reference(s)—Similar provisions, G.S. ~~160A-400.6~~ 160D-946.

### **Sec. 28-77. Designation reports.**

- (a) *Prepared by commission.* If the commission decides that a property should be considered for designation, the commission shall make or cause to be made an investigation and report meeting the minimum standards contained in subsection (c) of this section.
- (b) *Prepared by owner.* To receive consideration for designation of a property as historic, a property owner must submit to the commission an application meeting the minimum standards contained in subsection (c) of this



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section. Applications prepared by owners will be judged by the same criteria as those prepared by the commission. Owner applications shall be made on forms provided by the commission.

- (c) *Contents.* Designation reports, whether prepared by the commission or submitted as applications by an owner, shall include the following:
- (1) The name of the property, both common and historic names if they can be determined.
  - (2) The name and address of the current property owner.
  - (3) The location of the property and a justification of the land proposed to be designated historic. If located in an urban area, the street address shall be used; if located in a rural area, the approximate location in relation to state routes should be used.
  - (4) The date of construction and of any later alterations, if any.
  - (5) An assessment of the significance of the site or structure pursuant to the criteria established in G.S. ~~160A-400.5~~ [160D-946](#).
  - (6) An architectural or archaeological description of the area of the site or structure proposed to be designated. If outbuildings or other appurtenant features will be designated, the report should contain a description of these elements.
  - (7) A historical discussion of the site or structure within its type, period and locality.
  - (8) An overall photograph that clearly depicts the property proposed to be designated and supplementary photographs showing facades, details and siting.
  - (9) A map showing the location of the property, including any outbuildings and appurtenant features. A tax map with the boundaries of the designated properties marked.
  - (10) A concise statement of all elements to be included in the designation.
- (d) *Submission of reports.* A designation report prepared by or for the commission may be considered at any meeting of the commission provided the notification requirements contained in subsection (e) of this section are met. An application for designation prepared by the property owner and meeting all of the standards contained in subsection (c) of this section must be received at least 30 calendar days prior to the next meeting of the commission to be considered at the meeting.
- (e) *Notification procedures.*
- (i) When a designation report is prepared by the commission and is to be considered at a commissioners' meeting, the chairperson shall notify by certified mail, mailed not less than seven calendar days prior to the meeting at which the matter is to be heard, the owners of the property and the owners of abutting property. When an application for designation is submitted by the owner, the chairperson, using stamped, addressed envelopes provided by the owner, shall notify the abutting property owners by certified mail, mailed not less than seven calendar days prior to the meeting at which the matter is to be heard.
  - (ii) [The designation report may be considered by the commission at the same time that the proposed ordinance of designation is considered. If both are considered at the same time, the notice required by Section 28-77\(e\)\(i\) shall not be required. In such a case of simultaneous consideration, the ordinance of designation and the designation report shall be considered after a legislative hearing of the commission, advertised in accordance with G.S. 160D-601 \(see subsection 28-77\(h\) below\).](#)
- (f) *Consideration of report.* Once the designation report has been prepared, either by the commission or by the owner, and once the notification required by subsection (e) of this section has been met, the commission shall consider the report. The commission may accept it, amend it, reject it or recommend further study.

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Prior to final action on a designation report, the commission shall indicate the extent to which the property meets the criteria for designation contained in G.S. ~~160A-400.5~~ [160D-946](#).

- (g) *Review by department of cultural resources.* A report accepted by the historic properties commission shall be submitted to the state department of cultural resources, division of archives and history, for comments pursuant to G.S. ~~160A-400.6~~ [160D-946](#). After the expiration of the 30-day comment period given the division of archives and history, the commission may recommend to the city council that the property be designated as an historic property subject to the requirements of G.S. ~~160A-400~~ [160D-946](#).
- (h) *Submission to city council.* The commissioners shall submit a copy of their report and a proposed ordinance of designation to the city council. [The commission shall be required to hold a legislative hearing on the proposed ordinance prior to adoption of the proposed ordinance by city council. The council may hold its legislative hearing separately prior to submission of the proposed ordinance of designation to city council, or may hold its legislative hearing jointly with the legislative hearing required of city council. In either case, notice of the commission's legislative hearing shall be given in accordance with the requirements of G.S. 160D-601.](#)
- (i) *Public Legislative hearing.* When a proposed ordinance of designation is submitted, the city council shall hold a ~~public~~ [legislative](#) hearing on the proposed ordinance. [Notice of the city council's legislative hearing shall be given in accordance with G.S. 160D-601.](#)
- (j) *Adoption of ordinance.* Following the joint or separate ~~public~~ [legislative](#) hearing, the city council may adopt the ordinance as proposed, adopt the ordinance with amendments or reject the ordinance.

(Code 1971, § 13½-22; Ord. No. 97-1075, § 2, 12-4-97)

### **Sec. 28-78. Denied applications.**

If an application for historic property [landmark](#) designation is not approved [by city council through the adoption of a designation ordinance](#), a copy of the minutes of the meeting shall be mailed forthwith to the owner.

(Code 1971, § 13½-23)

### **Secs. 28-79—28-110. Reserved.**

## **ARTICLE IV. DESIGNATION OF HISTORIC DISTRICTS<sup>4</sup>**

### **Sec. 28-111. Character of historic districts.**

Historic districts established pursuant to this chapter shall consist of areas which are deemed to be of special significance in terms of their history, prehistory, architecture and/or culture, and to possess integrity of design, setting materials, feeling and association.

(Code 1971, § 13½-31)

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<sup>4</sup>Cross reference(s)—Establishment of zoning districts, app. A, § 4-1Cross reference(s)— et seq.

State law reference(s)—Designation of historic districts, G.S. ~~160A-400.4~~ [160D-944](#).

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**Sec. 28-112. Procedures.**

- (a) *Investigation and recommendation by historic preservation commission.* The commission shall determine whether any areas within the zoning jurisdiction of the city possess the character of historic districts as specified in section 28-111. If the commission makes such a determination, it shall cause to be made an investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, including therein the boundaries of such proposed district.
- (b) *Review by the department of cultural resources.* The historic preservation commission shall cause a copy of this report [and the proposed boundaries of the new or amended historic district](#), along with a written request for an analysis thereof, to be provided to the department of cultural resources. The department, acting through the state historic preservation [officer](#) or his [or her](#) designee, shall make an analysis of and recommendations concerning such report [and proposed boundaries](#). Failure of the department to submit its written analysis and recommendations to the city council within 30 calendar days, after receipt of the written request and report [and proposed boundaries](#), shall relieve the city of any responsibility for awaiting such analysis, and the city council may at any time thereafter take any necessary action to adopt or amend its zoning ordinance and thereby designate, or modify designation of, an historic district.
- (c) *Review and comment by the planning board.* The historic preservation commission shall also cause a copy of this report to be provided the planning board who will review it and make comments upon it in accordance with the procedures set forth in the zoning ordinance. [The planning board shall also consider and make a recommendation regarding the proposed adoption or amendment of any historic district prior to its being considered by city council, regardless of whether the district is approved through a zoning map amendment or by a separate development regulation.](#)
- (d) *Designation by city council.* The city council may, as part of a zoning or other ordinance enacted or amended pursuant to this chapter [or G.S. Chapter 160D Article 7 or G.S. Chapter 160D Articles 6 and 9](#), designate and from time to time amend one or more historic districts within the zoning jurisdiction of the city. Such ordinance may treat historic districts either as a separate use district classification or as districts which overlay other zoning districts. Where historic districts are designated as separate use districts, the zoning ordinance may include as uses by right or as conditional uses those uses found by the historic preservation commission to have existed during the period sought to be restored or preserved, or to be compatible with the restoration of the district. No historic district shall be designated until subsections (a), (b) and (c) of this section have been complied with.
- (e) *Changes in district boundaries.* Proposed changes in the boundaries of a designated historic district must comply with the requirements of this section [and with G.S. Chapter 160D Article 7 or G.S. Chapter 160D Articles 6 and 9, as appropriate.](#)

(Code 1971, § 13½-32)

**Secs. 28-113—28-145. Reserved.**

**ARTICLE V. CERTIFICATES OF APPROPRIATENESS<sup>5</sup>**

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<sup>5</sup>State law reference(s)—Certificates of appropriateness, G.S. ~~160A-400.9~~ [160D-102; 947](#).

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**Sec. 28-146. Required.**

- (a) *Activities requiring a certificate of appropriateness.* 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 aboveground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on such landmark or within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the preservation commission. The city shall require such a certificate to be issued by the commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this chapter. A certificate of appropriateness shall be required whether or not a building or other permit is required. For purposes of this section, the term "exterior features" shall include the architectural style, general design and general arrangement of the exterior of the 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. In the case of outdoor advertising signs, the term "exterior features" shall be construed to mean the style, material, size and location of all such signs. Such exterior features shall include significant landscape, archaeological and natural features of the area.
- (b) *Jurisdiction limited to exterior features.* Except as provided in subsection (c) of this section, the 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.
- (c) *Regulation of interior features with landowner consent.* Notwithstanding subsection (b) of this section, jurisdiction of the commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in public-owned landmarks and of privately owned historic landmarks for which consent for interior review has been given in writing by the owner. Such written 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 register of deeds of the county in the grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.

(Code 1971, § 13½-41; Ord. No. 98-1164, § 1, 12-10-98)

**Sec. 28-147. Relocation, demolition or destruction of designated properties.**

- (a) *Application for certificate of appropriateness.* An application for a certificate of appropriateness authorizing the relocation, demolition or destruction of a designated landmark or a building, structure or site within a designated historic district may not be denied except as provided in subsection (b) of this section. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the commission where it finds that the owner would suffer extreme hardship or be deprived of all beneficial use of or return from such

property by virtue of the delay. During such period the commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the commission finds that a building or site within a district has no special significance or value toward maintaining the character of a district, it shall waive all or parts of such period and authorize earlier demolition or removal.

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- (b) *Denial of certificate.* 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, 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.

(Code 1971, § 13½-42)

### **Sec. 28-148. Ordinary maintenance or repair.**

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, material or appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, moving or demolition of any such feature when the building inspector certifies to the commission that such action is required for the public safety because of an unsafe or dangerous condition.

(Code 1971, § 13½-43)

### **Sec. 28-149. Issuance.**

[Consideration of a certificate of appropriateness shall be conducted as an evidentiary hearing by the commission, conducted in accordance with the requirements of G.S. § 160D-406.](#)

- (a) *Submission of application.* An application for a certificate of appropriateness shall be obtained from and, when completed, filed with the appropriate administrative official. An application for a certificate of appropriateness shall be considered by the historic preservation commission at its next regular meeting, provided it has been filed, complete in form and content, at least 30 calendar days before the regularly scheduled meeting of the commission; otherwise, consideration shall be deferred until the following meeting.
- (b) *Contents of application.* The commission shall, by uniform rules in its rules of procedure, require data as are reasonably necessary to determine the nature of the application. The application for a certificate of appropriateness shall be signed by the record owner of the property or by an agent specifically authorized by the owner to sign such application. Where an agent signs the application, the applicant shall provide documentation acceptable to the city that the owner of the property has authorized the agent to sign in the owner's behalf. An application for a certificate of appropriateness shall not be considered complete until all required data has been submitted. Nothing shall prevent the applicant from filing with the application additional relevant information bearing on the application.
- (c) *Notification of historic preservation commission.* Upon receipt of an application, the chairperson or their designee shall notify the commission members of the contents of the application at least seven calendar days before the regularly scheduled meeting.
- (d) *Notification of affected property owners.* Prior to [the evidentiary hearing to consider issuance or denial of a certificate of appropriateness, the commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application and shall give the applicant and such owners an opportunity to be heard. The commission shall notify all adjacent property owners at least seven calendar days prior to the meeting for which the application is scheduled. A property shall be deemed adjacent notwithstanding the intervention of a street right-of-way that is 100 feet wide or less. give notice of the evidentiary hearing as required by G.S. 160D-406, which requires mailed and posted notice.](#)

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- (e) ~~Public hearing. In cases where the commission deems it necessary, it may hold a public hearing concerning the application. Reserved.~~
  - (f) *Commission action.* The commission shall take action on the application and in doing so shall apply the requirements of this chapter and the design **guidelines standards** adopted by the commission pursuant to section 28-~~42(13)~~151. The commission's action on the application shall be approval, approval with modifications or disapproval. Prior to final action on an application, the commission, using the **guidelines standards** in section 28-~~42(13)~~151, shall make findings of fact indicating the extent to which the application is or is not in compliance with the review criteria.
  - (g) *Minutes to contain reasons for action.* The commission shall cause to be entered into the minutes of its meeting the reasons for its actions, whether it be approval, approval with modifications or denial.
  - (h) *Time limits.* The commission shall take final action on any application for a certificate of appropriateness in an expeditious manner, and, in any event, within 180 days from the date the application was filed. An applicant may at any time demand in writing that the commission take final action as soon as possible. Upon receipt of such written demand, the commission shall take final action at the next commission meeting which is at least 21 days in the future.
  - (i) *Written Decision.* The commission shall render a written decision as required by G.S. 160D-406(j). Notice shall be delivered as required by G.S. 160D-406(j), and the person required to provide the notice shall certify to the city that proper notice has been given, and the certificate shall be deemed conclusive in the absence of fraud.
  - (j) *Submission of new application.* If the commission determines that a certificate of appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving. An application for a certificate of appropriateness for the relocation, demolition or destruction of a structure within a historic district, or otherwise designated as a historic landmark, may only be denied in accordance with Section 28-147 and G.S. 160D-949.

(Code 1971, § 13½-44; Ord. No. 02-0108, § 1, 1-10-02; Ord. No. 06-0836, §§ 1, 2, 8-10-06; Ord. No. 09-0943, §§ 1, 2, 9-10-09)

### **Sec. 28-150. ~~Reserved.~~ Appeals.**

~~— An appeal may be taken to the zoning board of adjustment from the commission's action in granting or denying any certificate, which appeals:~~

~~(1) — May be taken by any aggrieved party;~~

~~(2) — Shall be taken within 20 days of the commission's action; and~~

~~(3) — Shall be in the nature of certiorari.~~

~~Any appeal from the zoning board of adjustment's decision in any such case shall be taken to the superior court of the county.~~

(Code 1971, § 13½-45; Ord. No. 97-1075, § 3, 12-4-97)

### **Sec. 28-151. Design **guidelines standards**.**

In addition to the Secretary of the Interior's Standards for Rehabilitation (Department of Interior regulations, 36 CFR 67), the commission shall adopt and amend, as necessary, design **guidelines standards** which shall constitute the standards by which applications for certificates of authority shall be reviewed. Insofar as possible,

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these [guidelines standards](#) are intended to insure that changes in designated properties shall be in harmony with the reasons for their designation.

(Code 1971, § 13½-46; Ord. No. 06-0836, § 3, 8-10-06)

### **Sec. 28-152. Authentic restoration or reconstruction not meeting zoning requirements.**

If the historic preservation commission, in reviewing an owner's proposed plans, shall find that a building or structure for which a building permit is required is to be an authentic restoration or reconstruction of a building or structure which existed at the same location, but does not meet zoning requirements, such building or structure may be authorized to be restored or reconstructed at the same location where the original buildings or structures were located, provided the board of adjustment authorizes such restoration or reconstruction and no use other than that permitted in the district in which it is located is made of such property [pursuant to Section 10-9 Variance or Section 6-2-1 Nonconforming Uses of the zoning ordinance, or the restoration or reconstruction would be permitted pursuant to Section 6-2-1 of the zoning ordinance with the approval of city staff](#). Such conditions as may be set by the commission and the zoning board of adjustment ([as applicable](#)) shall be conditions for the issuance of the building permit.

(Code 1971, § 13½-47)

### **Sec. 28-153. Administrative approval of minor works.**

Minor works are defined as those exterior changes that do not involve a change to the visual character of the property and do not involve substantial alterations, additions, or removals that could impair the integrity of the property and/or district as a whole. The commission shall have the authority to delegate to their professional staff, hereafter referred to as their "coordinator," approval of minor works, as defined above.

Specific examples of minor works are described in the rules of procedure adopted, as amended from time to time, by the commission. The commission coordinator may approve but may not deny an application for a certificate of appropriateness for minor works. If the commission coordinator determines to not issue a certificate of appropriateness for minor works, the application shall be referred to the commission for action.

~~A decision by the commission coordinator to issue a certificate of appropriateness for minor works may be appealed in the same manner as other decisions made by the commission as described above.~~

(Ord. No. 06-0836, § 4, 8-10-06)

### **Sec. 28-154. Notification of Decisions, Approvals and Determinations**

Written notice of all development approvals and determinations shall be given in accordance with the following requirements:

- (1) Administrative Decision, Development Approval and Determinations by Staff. Written notice of Administrative Decisions, development approvals and determinations made by City staff shall be given in accordance with the requirements of N.C.G.S. Section 160D-403(b). Posting of the property by the applicant or Owner(s) (if not the applicant) with notice of the Administrative Decision, development approvals and determinations made by City staff shall not be required, but is recommended in order to provide constructive notice to the public of the Administrative Decision, development approval, or determination made. The person giving the written notice of the decision shall certify in writing that the required notices were given.
- (2) Decisions Regarding Evidentiary Hearings by the Historic Preservation Commission. A copy the written decisions, development approvals and determinations made by the Historic Preservation Commission

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[following an Evidentiary Hearing shall be given in accordance with the requirements of N.C.G.S. Section 160D-406\(j\). Posting of the property by the applicant or Owner\(s\) \(if not the applicant\) with notice of the decision, development approvals and determinations made by the commission shall not be required, but is recommended in order to provide constructive notice to the public of the decision, development approval, or determination made. The staff member person delivering the written decision required by N.C.G.S. Section 160D-\(j\) shall certify in writing that the written decision was delivered as required.](#)

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**Secs. 28-1554—28-189. Reserved.**

## ***ARTICLE VI. DEMOLITION BY NEGLECT***

### **Sec. 28-190. Standards.**

The exterior features of any building or structure (including walls, fences, light fixtures, steps, pavement, paths, or any other appurtenant feature), or any type of outdoor advertising sign either designated as an historic landmark or located within an historic district shall be preserved by the owner or such other person who may have legal possession, custody and control thereof against decay and deterioration and kept free from structural defects. The owner, or other person having such legal possession, custody and control, shall upon written request by the city repair such exterior features if they are found to be deteriorating, or if their condition is contributing to deterioration, including but not limited to any of the following defects which have the effect of significantly impairing the integrity of such building or structure or the special character of such historic district:

- (1) Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling.
- (2) Deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling.
- (3) Deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling.
- (4) Deterioration or crumbling of exterior plasters or mortars.
- (5) Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.
- (6) Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering.
- (7) Rotting, holes, and other forms of decay.
- (8) Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling.
- (9) Heaving, subsidence, or cracking of sidewalks, steps, or pathways.
- (10) Deterioration of fences, gates, and accessory structures.
- (11) Deterioration that has a detrimental effect upon the special character of the district as a whole or the unique attributes and character of the historic landmark.



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- (12) Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or other property.

(Ord. No. 99-0218, § 1, 2-4-99)

### **Sec. 28-191. Petition and action.**

The historic preservation commission may file a petition listing specific defects with the zoning administrator requesting that administrator act under the following procedures to require the correction of deterioration or making of repairs to any historic landmark or structure located within an historic district so that such structure shall be preserved and protected in accordance with the purposes of section 28-1 of this Code.

- (1) Whenever a petition is filed with the zoning administrator charging that a structure is undergoing demolition by neglect, the administrator shall, if her preliminary investigation discloses a basis for such charges, within seven days issue and cause to be served upon the owner and/or such other person who may have legal possession, custody, and control thereof, as the same may be determined by reasonable diligence, a complaint stating the charges in that respect and containing a notice that an [administrative](#) hearing will be held before the administrator not less than 30 nor more than 45 days after the serving of such complaint; that the owner and/or parties in interest shall be given a right to answer to give testimony at the place and time fixed in the complaint; that the commission shall also be given notice of the hearing and that the rules of evidence prevailing in courts of law or equity shall not be controlling [administrative](#) hearings before the administrator. The purpose of the [administrative](#) hearing is to receive evidence concerning the charge of deterioration and to ascertain whether the owner and/or other parties in interest wishes to petition the commission for a claim of undue economic hardship.
- (2) If after such notice and [administrative](#) hearing, the administrator determines that the structure is undergoing demolition by neglect because it is deteriorating, or if its condition is contributing to deterioration, according to the standards of section 28-190, the administrator shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owner and/or other parties in interest therein an order to repair within the time specified those elements of the structure that are deteriorating, contributing to deterioration, or deteriorated. In the event that the owner ~~and~~ and/or other parties in interest wish to petition for a claim of undue economic hardship, the administrator's order shall be stayed until after the commission's determination in accordance with the procedures of section 28-193.

(Ord. No. 99-0218, § 1, 2-4-99)

### **Sec. 28-192. Methods of service.**

Complaints or order issued by the administrator shall be served upon persons either personally or by registered or certified mail; but if the whereabouts of such persons are unknown and the same cannot be ascertained by the administrator in the exercise of reasonable diligence, and the administrator shall make an affidavit to that effect, stating the steps taken to determine and locate the persons in interest, then the serving of such complaint or order may be made by publishing the same once each week for two successive weeks in a newspaper generally circulated within the city. Where such service is by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(Ord. No. 99-0218, § 1, 2-4-99)

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## Sec. 28-193. Safeguards from undue economic hardship.

- (a) When a claim of undue economic hardship is made owing to the effects of this article, the administrator shall notify the commission within three days following the [administrative](#) hearing on the complaint. The commission shall schedule an [evidentiary](#) hearing on the claim at its next regular meeting, within the limitations of its procedures for application deadlines. [The evidentiary hearing shall be conducted in accordance with, and notice shall be given as required by, G.S. 160D-406.](#)

The petitioner shall present the information provided under subsection (b) to the commission. The commission may require that an owner and/or parties in interest furnish such additional information that is relevant to its determination of undue economic hardship. The commission may direct its staff to furnish additional information as the commission believes is relevant. The commission shall also state which form of financial proof it deems relevant and necessary to a particular case.

In the event that any of the required information is not reasonably available to the owner and/or parties in interest and cannot be obtained by the owner, the owner shall describe the reasons why such information cannot be obtained.

- (b) When a claim of undue economic hardship is made owing to the effects of this article, the owner and/or parties in interest must provide evidence during the hearing upon the claim, describing the circumstances of hardship. The minimum evidence shall include for all property:
- (1) Nature of ownership (individual, business, or non-profit) or legal possession, custody, and control.
  - (2) Financial resources of the owner and/or parties in interest.
  - (3) Cost of repairs.
  - (4) Assessed value of the land and improvements.
  - (5) Real estate taxes for the previous two years.
  - (6) Amounts paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance.
  - (7) Annual debt service, if any, for previous two years.
  - (8) Any listing of the property for sale or rent, price asked, and offers received, if any.

For income producing property:

- (9) Annual gross income from the property for the previous two years.
  - (10) Itemized operating and maintenance expenses for the previous two years, including proof that adequate and competent management practices were followed.
  - (11) Annual cash flow, if any, for the previous two years.
- (c) Within 60 days of the commission's hearing on the claim, the commission shall cause to be made a finding of undue or no undue economic hardship and shall enter the reasons for such finding into the record. In the event of a finding of no undue economic hardship, the commission shall report such finding to the administrator, and the administrator shall cause to be issued an order for such property to be repaired within the time specified.
- (d) In the event of a finding of undue economic hardship, the finding shall be accompanied by a recommended plan to relieve the economic hardship. This plan may include, but is not limited to, property tax relief as may be allowed under North Carolina law, loans or grants from the city, or other public, private or nonprofit sources, acquisition by purchase or eminent domain, building code modifications, changes in applicable

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zoning regulations, or relaxation of the provisions of the article sufficient to mitigate the undue economic hardship. The commission shall report such finding and plan to the administrator. The administrator shall cause to be issued an order for such property to be repaired within the time specified and according to the provisions of the recommended plan.

(e) A written decision shall be made and notice of such decision given and certified in accordance with the requirements of G.S. 160D-406(j).

(Ord. No. 99-0218, § 1, 2-4-99)

### **Sec. 28-194. Reserved Appeals.**

~~Findings made by the administrator or by the commission may be appealed to the board of adjustment. To perfect such an appeal, application must be filed by an aggrieved party with the board of adjustment within ten days following receipt of the order for repair of the property or determination. Appeals shall be in the nature of certiorari.~~

(Ord. No. 99-0218, § 1, 2-4-99)

### **Sec. 28-195. Other city powers.**

Nothing contained within this article shall diminish the city's power to declare an unsafe building or violation of the minimum housing code.

(Ord. No. 99-0218, § 1, 2-4-99)

### **Sec. 28-196. Penalties and remedies.**

Enforcement of this article may be by any one or more of the following methods, and the institution of any action under any of these methods shall not relieve any party from any other civil or criminal proceeding prescribed for violations and prohibitions.

- (1) *Equitable remedy.* The city may apply for any appropriate equitable remedy to enforce the provisions of this article.
- (2) *Order of abatement.* The city may apply for and the court may enter an order of abatement. An order of abatement may direct that improvements or repairs be made, or that any other action be taken that is necessary to bring the property into compliance with this article. In the event the city executes an order of abatement, the city shall have a lien, in the nature of a mechanic's and materialman's, on the property for the cost of executing such order.
- (3) *Civil penalty.* No civil penalty shall be levied unless and until the administrator shall deliver a written notice by personal service or by registered mail or be certified mail, return receipt requested, to the person responsible for each violation indicating the nature of the violation and ordering corrective action. The notice shall also set forth the time period when corrective measures must be completed. The notice shall state that failure to correct the violation within the specified time period will result in the assessment of civil penalties and other enforcement action. If after the allotted time period has expired and after the hearing of an appeal if any by ~~the board of adjustment~~ commission, corrective action has not been completed, a civil penalty shall be assessed in accordance with the provision for fines in section 1-6 of this Code.

(Ord. No. 99-0218, § 1, 2-4-99; Ord. No. 12-0722, § 1, 7-5-12)

