

## Chapter 9.5 HISTORIC LANDMARKS\*

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\***Cross references:** Buildings, Ch. 7; planning and development, Ch. 17; zoning, Ch. 21.

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### ARTICLE I. IN GENERAL

#### Sec. 9.5-1. Definitions.

Unless otherwise expressly provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter. For any word that is not defined in this section, the common dictionary definition applies.

*Administrative decision* means a decision made in the implementation, administration, or enforcement of this ordinance by staff from the Rowan County Planning and Development Department that involve the determination of facts or the application of objective standards set forth in this chapter. When making these decisions, staff must adhere to the conflict of interest provisions of section 21-314 (b) of the Rowan County Zoning Ordinance. These are sometimes referred to as “ministerial” decisions or “administrative determinations”.

*Courtesy hearing.* A hearing before the Historic Landmarks Commission that provides an opportunity for the public to express their views and opinions on an agenda item prior to the board making a recommendation concerning the matter. These hearings are required as a precursor to decisions required by this chapter by the Board of Commissioners. When making these decisions, staff must adhere to the conflict of interest provisions of section 21-315 (2)(a) of the Rowan County Zoning Ordinance.

*Determination* means a written, final 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 required prior to commencing development or undertaking a specific activity, project, or development proposal. The term also includes all other regulatory approvals required by this chapter.

*Discontinue* means to stop or cease the use of a property.

*Legislative decision* means the adoption, amendment, or repeal of a development regulation.

*Public hearing* means, for the purposes of this chapter, a hearing conducted by the Board of Commissioners to solicit public comment and consider appropriate criteria identified in this chapter prior to making decisions required herein.

*Minor work* means activities which do not impair the integrity of the property, historical significance, or involve the following unless specifically referenced in the historic designation: alterations in the design, material, or appearance of a structure or appurtenant feature; additions to a structure; removal of a structure; or interior change. Additionally, minor work includes routine maintenance to structures, appurtenances, and grounds within the designation area intended to keep the property in good condition.

*Major work* means any activity that does not qualify as minor work.

*Quasi-judicial decision means* a decision involving the findings of fact regarding a specific application of development regulation and that requires the exercise of discretion when applying the regulation standards made during a quasi-judicial hearing.

*Quasi-judicial hearing* means a hearing to gather competent, material, and substantial evidence in order to make a quasi-judicial decision. Quasi-judicial hearings are also referred to as evidentiary hearings.

*“Written” or “in writing”* means written communication, including by electronic mail, executed by a staff member to document a determination, order, interpretation, notification, or other purpose identified by this chapter. Unless specified otherwise, in the absence of evidence to the contrary, delivery by first class mail shall be deemed received on the third business day following deposit of the item with the United States Postal Service and delivery by electronic mail shall be deemed received on the date sent.

Secs. 9.5-2--9.5-25. Reserved.

## **ARTICLE II. LANDMARK COMMISSION**

### **Sec. 9.5-26. Title.**

This article shall be known and may be cited as the Historic Landmarks Ordinance of Rowan County.

(Ord. of 3-18-02(1))

**Sec. 9.5-27. Purpose.**

The purposes and objectives for which this article is adopted include the following:

- (1) To enhance the environmental and aesthetic quality of neighborhoods, as well as in the rural areas of the county.
- (2) To strengthen the economic base by the stimulation of the tourist industry.
- (3) To establish and improve property values by generating an improved appearance in older, transitional areas.

(Ord. of 3-18-02(1))

**Sec. 9.5-28. Establishment and jurisdiction.**

There is hereby established under the authority of G.S. Ch. 160D, Art. 9, pt. 4, a commission to be known as the historic landmarks commission of the county (hereinafter, "commission"), whose jurisdiction shall include all unincorporated areas of the county excluding all municipalities and their extra territorial jurisdiction as applicable.

(Ord. of 3-18-02(1); Amend. of 7-16-07(1))

**Sec. 9.5-29. Appointment and terms of office.**

- (a) The commission shall consist of seven (7) members appointed by the board of county commissioners. All members shall reside within the planning and zoning jurisdiction of the county. In addition, a majority of those members shall be qualified through demonstration of special interest, experience, education in history, architecture, archaeology, or other related fields.
- (b) Commission members shall be appointed for three-year staggered terms, but members may continue to serve until their successors have been appointed. All terms of office shall end on the 31st day of December of the year. Any terms not ending on December 31st shall be extended to December 31st of that year upon adoption of the ordinance from which this article derives. Initially, three (3) members shall be appointed for three-year terms, three (3) members shall be appointed for two-year terms, and one (1) member shall be appointed for a one-year term. Current members who have three-year, two-year, or one-year terms remaining shall continue to serve with additional members being appointed to establish the staggered terms of the landmarks commission membership. Vacancies may be filled for the unexpired term only.
- (c) Members may be appointed to only two (2) successive terms.
- (d) Landmarks commission members shall be removed by the county commissioners at any time for failure to attend thirty (30) percent or more of the meetings within any twelve-month period, or for any other good cause related to performance of duties.
- (e) If a commission member moves outside the county, that shall constitute a resignation from the landmarks commission, effective upon the date a replacement is appointed by the county commissioners.
- (f) Prior to performing duties referenced in section 9.5-30, new and reappointed

members shall take an oath of office referenced in G.S. 11-7 and 153A-026.  
(Ord. of 3-18-02(1); Amend. of 7-16-07(1))

**Sec. 9.5-30. Powers of the Historic Landmarks Commission.**

The commission shall be authorized to exercise the following within its jurisdiction:

- (1) Conduct an inventory of properties having historical, prehistorical, architectural and/or cultural significance.
- (2) Make recommendations to the county commissioner's regarding structures, sites, areas, or objects to be designated by ordinance as "historic landmarks".
- (3) Acquire the fee or any lesser included interest, including options to purchase, to any such properties designated as landmarks, to hold, manage, preserve, restore and improve such properties, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions that will secure appropriate rights of public access and promote the preservation of the property.
- (4) Restore, preserve and operate historic landmarks.
- (5) Recommend to the county commissioners that the designation of any locally adopted historic landmark be revoked or removed.
- (6) Prepare and recommend the official adoption of a preservation element.
- (7) Within the limits of funds appropriated to it, given to it, or otherwise made available to it, appoint such employees and engage such consultants as it may desire and acquire property and materials for its use and incur other necessary expenses.
- (8) Cooperate with the state, federal, and local governments in pursuance of the purposes of this article; to offer or request assistance, aid, guidance or advice concerning matters within its jurisdiction or of mutual interest. The commission, where authorized by the county commissioners, may contract with the state or federal government, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law.
- (9) Members, employees, or agents may enter, solely in performance of their official duty, upon private lands or structures for examination or survey thereof only upon receiving the express written consent from the owner(s).
- (10) Review and act upon proposals for the alteration or demolition of designated landmarks pursuant to this article.
- (11) Negotiate at any time with the owner of a building, site, structure, area or object for its acquisition or preservation when such action is reasonable, necessary or appropriate.
- (12) Conduct an educational program regarding historic landmarks within its jurisdiction.

- (13) Perform any other duties, which may lawfully be assigned to it.

(Ord. of 3-18-02(1); Amend. of 7-16-07(1))

### **Sec. 9.5-31. Designation of landmarks.**

Upon compliance with the landmark designation procedures as set forth in this article, the county commissioners may adopt and amend or repeal an ordinance designating one (1) or more historic landmarks. No property shall be recommended for designation as a landmark unless written consent from the property owner(s) is obtained and it is deemed and found by the landmarks 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, character and/or association.

The ordinance shall describe each property designated in the ordinance, the name(s) of the owner(s) of the property, those elements of the property that are integral to its historic significance, including the land areas of the property so designated and any other information deemed necessary by the county commissioners. For each designated landmark, the ordinance shall require that the waiting period set forth in section 9.5-37 be observed prior to its demolition. In addition, 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.

(Ord. of 3-18-02(1))

### **Sec. 9.5-32. Required landmark designation procedures.**

As a guide for the identification and evaluation of landmarks, the commission shall catalog and inventory all properties of historical, architectural, prehistorical, or cultural significance within its jurisdiction. Such inventories and any additions or revisions shall be submitted to the division of archives and history.

No ordinance designating a historic building, site, structure, or area, as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the commission or county commissioners until all of the following procedural steps have been taken:

- (1) The landmarks commission shall amend and adopt rules of procedure and principles and standards for altering, restoring, moving or demolishing structures designated as landmarks.
- (2) The landmarks commission shall only make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational or cultural significance of each building, structure, site area or object proposed for designation or acquisition with written consent of property owner(s). Such investigation or report shall be forwarded to the division of archives and history, state department of cultural resources.
- (3) The department of cultural resources, acting through the state historic preservation officer, shall upon request of the department or at the initiative of the landmarks commission, be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this article. Any comments shall be provided in writing. If the department does not submit its comments or recommendations in

connection with any designation within thirty (30) days following receipt by the department of investigation and report of the commission, the commission and county commissioners shall be relieved of any responsibility to consider such comments.

- (4) Proposed ordinance designations require initial consideration and recommendation by the landmarks commission during a courtesy hearing followed by a public hearing by the county commissioners to receive public comment regarding the ordinance consistent with procedures specified in 21-315 (1)(b)(c) and (2)(a) of the Rowan County Zoning Ordinance.
- (5) Following the public hearing, the county commissioners may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
- (6) Upon adoption of the ordinance, the owner(s) and occupant(s) of each designated landmark shall be given written notification of the designation within twenty-one (21) days after the public hearing. One (1) copy of the ordinance and all amendments thereto shall be filed by the landmarks commission with county register of deeds. Each designated landmark shall be indexed according to the property owner(s) name in the grantee and grantor indexes of the register of deeds, and the commission shall pay the fee for filing and indexing. All designated landmarks shall be clearly indicated on all applicable tax maps maintained by the county for such period as the designation remains in effect. A copy of the ordinance shall be given to the director of the Rowan County Building Inspections Department.
- (7) Upon adoption of the ordinance or subsequent amendments thereto, it shall be the duty of the commission to provide notice to the county tax assessor. The designation and any recorded restrictions upon the landmark limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

(Ord. of 3-18-02(1))

**Sec. 9.5-33. Certificate of appropriateness (COA) required.**

- (a) Upon designation of a landmark, no exterior portion of any building or other structure (to include masonry walls, fences, light fixtures, steps, 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 a landmark until after an application for a certificate of appropriateness (COA) as to exterior features has been submitted to and approved by the landmarks commission or planning staff. The county shall require such a certificate prior to the issuance of a building permit or altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this article. A certificate of appropriateness shall be required whether or not a building or other permit is required.

For purposes of this article, "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 the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior features" may, in the discretion of the county commissioners as part of the landmark designation process, include historic signs, color, and significant landscape, archaeological and natural features of the area.

Requests for COAs shall be submitted in accordance with the below options:

1. *Minor work.* A COA for minor work consistent with the definition in section 9.5-1 and the standards herein may be reviewed and approved administratively in accordance with adopted design standards. Development approval remains valid provided that such activity is commenced within one (1) year of the date of issuance but expires if the work or activity is discontinued for a period of one (1) year after work has commenced. Staff has the discretion to refer a COA request for minor work to the commission to be reviewed as major work. No application for a COA may be denied by staff without formal action by the commission. The following list contains examples of minor work:

- Repainting using the same color
- In-kind replacement of glass
- Repointing and other masonry repairs matching existing materials
- In-kind roof covering replacement
- Foundation repairs including vents and access doors
- Repairs to walkways, patios, fences, and driveways to match the original
- In-kind replacement of small amounts of deteriorated siding, trim, porch flooring, stairs, landings, and steps totaling less than 25 percent of the overall sq. ft.
- Installation of storm windows and full view storm doors with trim color being either white or matching house
- Replacement of mechanical or electrical equipment, antennas, and satellite dishes in same location
- Installation of gutters and downspouts where the color matches the house trim
- Alteration, installation, or removal of exterior light fixtures
- Side or rear yard fences and walls
- Landscaping side and rear yards
- Pruning vegetation and removal of trees
- Alteration of accessory structure with no footprint expansion
- Removal of deteriorated accessory buildings not original to the site
- New accessory structure totaling 150 sq.ft. or less

- Temporary signs such as real estate, political, etc.

2. *Major Work.* A COA for major work must be considered by the commission subject to this ordinance and adopted design standards during a quasi-judicial hearing consistent with the notice and hearing procedures noted in section 21-315 of the Zoning Ordinance for said hearing type. If approved, a COA shall expire two (2) years from the date of issuance if the work authorized by the approval has not substantially commenced unless a vesting period longer than two (2) years is granted by the Board of Commissioners in accordance with section 21-11 of the Zoning Ordinance. Unless provided otherwise by this chapter or applicable law, if after commencement the work or activity is discontinued for a period of one (1) year after commencement, the development approval shall expire.

- (b) Except as provided in subsection (d) below, the commission shall have no jurisdiction over interior arrangement. The commission 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 significant features that would be incongruous with the special character of the landmark. In making decisions on COAs, the commission shall apply the rules and standards adopted pursuant to subsection (c) of this section.
- (c) Prior to enforcing a landmark ordinance, the commission shall (a) prepare and adopt rules of procedure, and (b) prepare and adopt principles and standards consistent with this section to guide the commission in determining congruity with the special character of the landmark for new construction, alterations, additions, moving and demolition.
- (d) Notwithstanding subsection (a) of this section, jurisdiction of the commission over interior spaces shall be limited to specific interior features of architectural, artistic, or historical significance in publicly owned landmarks and of privately owned landmarks for which consent for interior review has been given by the owner. Interior designation shall bind future owners and / or successors in title, provided such consent has been filed in the office of the register of deeds indexed by the property owner name in the grantee and 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.
- (e) All applications for COAs shall be reviewed and acted upon within a reasonable time, not to exceed one hundred eighty (180) days from the date the application for a COA is filed, as defined by this article or the commission's rules of procedure. As part of its review procedure, the commission may view the premises and seek the advice of the division of archives and history or such other expert advice as it may deem necessary under the circumstances.
- (f) All of the provisions of this section are hereby made applicable to construction, alteration, moving and demolition by the state, its political subdivision, agencies and instrumentalities, provided, however, they shall not apply to interiors of buildings or structures owned by the state. The state and its agencies shall have the right to appeal the state historical commission or any successor agency assuming its responsibilities under G.S. 121-12(a) from any decision of the commission. The current edition of the Secretary of the Interior's Standards for



Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principle guidelines used in reviewing applications of the state for COAs. The decision of the commission shall be final and binding upon both the state and the landmark commission.

- (g) All decisions of the commission in granting or denying a COA may be appealed to the Rowan County Board of Adjustment in the nature of certiorari in accordance with G.S. 160D-1404 and section 21-331 of the Rowan County Zoning Ordinance. Appeals from the Board of Adjustment may be made pursuant to G.S. 160D-1402.

(Ord. of 3-18-02(1); Amend. of 7-16-07(1))

**Sec. 9.5-34. Filing of application.**

All application procedures for a certificate of appropriateness contained within the commission's adopted rules and procedures shall be recognized.

(Ord. of 3-18-02(1))

**Sec. 9.5-35. Appropriations.**

The county commissioners are authorized to make appropriations to the commission reestablished pursuant to this article in any amount that it may determine necessary for the expense of the operation of the commission, and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation and management of historic landmarks, or of land on which such buildings or structures are located, or to which they may be removed. The county commissioners shall have the power to accept gifts or donations in the name of the county for historic preservation or designation purposes. Monies appropriated to the commission as of the effective date of this amendment may be used regardless of the funding source.

(Ord. of 3-18-02(1); Amend. of 7-16-07(1))

**Sec. 9.5-36. Certain changes not prohibited.**

Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of a landmark that 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 that the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing in this article shall be construed to prevent any property owner from making any use of this property that is not prohibited by other law. 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 landmark commission.

(Ord. of 3-18-02(1))

**Sec. 9.5-37. Delay in demolition of landmarks.**

- (a) An application for a certificate of appropriateness authorizing the demolition or

destruction of a designated landmark, structure or site may not be denied except as provided for in subsection (c) of this section. However, the effective date of such a certificate may be delayed for a period of up to one hundred eighty (180) 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 permanently deprived of all beneficial use of, or return from, such property by virtue of delay. During such period, the commission shall 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 landmark has no special significance or value toward maintaining the character of the surrounding neighborhood, it shall waive all or part of such period and authorize earlier demolition or removal.

If the commission has voted to recommend designation of a property as a landmark and final designation has not been made by the county commissioners, the demolition or destruction of any building, site or structure located on the property of the proposed landmark may be delayed by the commission for a period of up to ninety (90) days, or until the county commissioners take final action on the designation whichever occurs first.

- (b) The county commissioners may enact an ordinance to prevent the demolition by neglect of any designated landmark. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.
- (c) 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.

(Ord. of 3-18-02(1); Amend. of 7-16-07(1))

### **Sec. 9.5-38. Conflict with other laws.**

Whenever any ordinance adopted pursuant to this article requires a longer waiting period or imposes other higher standards with respect to a designated historic landmark, other than are established under any other statute, charter, provision or regulation, this article shall govern. Whenever the provisions of any other statute, charter, provision, ordinance or regulation require a longer waiting period, or impose other higher standards than are established under this article, such other statute, charter, provision, ordinance, or regulation shall govern.

(Ord. of 3-18-02(1))

### **Sec. 9.5-39. Remedies.**

In case any building, structure, site, area or object designated as a historic landmark, pursuant to this article, is about to be demolished, whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the ordinance or other provisions of this article the county, the landmark's commission, or other aggrieved party by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction,

material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct, with respect to such building, site, structure, area or object. The provisions of this chapter may be enforced in accordance with the procedures established in section 21-13 and 21-14 of the Zoning Ordinance. Additionally, administrative decisions may be revoked in accordance with section 21-315 (c).

(Ord. of 3-18-02(1))

#### Sec. 9.5-40. Amendments.

The standards of this ordinance may be amended in accordance with sections 21-315 and 21-361 of the Zoning Ordinance with the exception of a courtesy hearing and statement of consistency requirement.