

**FORSYTH COUNTY**  
**BOARD OF COMMISSIONERS**

**MEETING DATE:** \_\_\_\_\_ **AGENDA ITEM NUMBER:** \_\_\_\_\_

**SUBJECT:-**

Request for Public Hearing on zoning text amendment proposed by the City-County Planning Board

**COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-**

**SUMMARY OF INFORMATION:-**

Zoning text amendment proposed by the City-County Planning Board to replace Article IV - Historic/Historic Overlay Districts, with new Article IV - Historic Landmarks and Historic/Historic Overlay Districts to provide for the merger of the Forsyth County Joint Historic Properties Commission with the Winston-Salem Historic District Commission and to amend other applicable sections (UDO-84).

After consideration, the Planning Board recommended approval of the zoning text amendment.

**ATTACHMENTS:-**     YES         NO

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**ACTION REQUEST FORM**

**DATE:** December 19, 2001  
**TO:** The Honorable Mayor and Board of Aldermen  
**FROM:** A. Paul Norby, AICP, Director of Planning

**BOARD ACTION REQUEST:**

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**PLANNING BOARD ACTION:**

**MOTION ON PETITION:** APPROVAL  
**FOR:** UNANIMOUS  
**AGAINST:** NONE  
**SITE PLAN ACTION:** NOT REQUIRED

## STAFF REPORT

**DOCKET #:** UDO-84

**STAFF:** LeAnn Pegram

### REQUEST

Text amendment proposed by the City-County Planning Board to replace Article IV, "Historic/Historic Overlay Districts" of Chapter B "Zoning" of the *Unified Development Ordinances* to 1) provide for merger of the Winston-Salem Historic District Commission (HDC) and the Forsyth County Joint Historic Properties Commission (HPC), and 2) make minor revisions to existing regulations.

### BACKGROUND

Merger of the HDC and HPC is an action that has been recommended for a number of years. The County's previous comprehensive plan, *Vision 2005*, as well as the current development guide, *Legacy*, both recommend merging the two commissions in order to consolidate historic preservation efforts in Forsyth County.

During previous years, merger of the Commissions was contemplated, yet up until the past two years, membership of the two commissions was not ready to implement the recommendation. Over the past year, the commissions appointed members to a joint subcommittee to study merger in depth and draft a merger ordinance. In doing so, the six-member subcommittee studied ordinances from commissions throughout North Carolina. Specifically, the commissions reviewed the operation of preservation commissions in Asheville and Durham, which are the two largest cities in North Carolina with a combined preservation commission. Additionally, as the study process continued, it was decided that several minor revisions to the existing regulations should be implemented concurrently.

Specifically, the text amendment:

- (1) provides for merger of the HDC and HPC into the Forsyth County Historic Resources Commission (HRC);
- (2) establishes a 12-member commission with representation from Forsyth County, Winston-Salem, Kernersville, and Clemmons;
- (3) establishes new categorical and at-large membership categories;
- (4) outlines powers of the (HRC);
- (5) establishes a procedure for designation of local historic landmarks;
- (6) makes minor revisions to the local historic district designation process;
- (7) makes no revision to the existing H and HO District zoning uses and dimensional requirements;
- (8) establishes Certificate of Appropriateness (COA) requirements for local historic landmarks;
- (9) makes minor revisions to the COA requirements in H and HO Districts;
- (10) makes minor revisions to COA procedures, including: an extension of time for Commission action on COA's from 60 to 120 calendar days, more detail on COA time limits, more detail on the approval of minor work, and an extension of time in which an appeal of a Commission COA decision can be made from 20 to 30

- calendar days;
- (11) makes minor revisions to the standards for review; and,
- (12) changes references from Historic Districts Commission (HDC) or Historic Properties Commission (HPC) to the Historic Resources Commission (HRC).

For more detailed information regarding the proposed amendment, please refer to the attachment following the staff report.

### **ANALYSIS**

Staff opinion is that the amendment resulting in merger of the HDC and HPC will be advantageous from several standpoints. First, merger will streamline the processes for landmark and historic district designation and the Certificate of Appropriateness process. Second, from an administrative standpoint, merger will result in a more efficient use of staff time. Third, combining the two commissions into one group will be more user-friendly and result in less confusion from the public about what commission manages which projects. Finally, staff believes that one unified preservation commission will serve to strengthen and unify the voice for historic resources in Forsyth County.

### **RECOMMENDATION**

Staff recommends **APPROVAL**.

LeAnn Pegram presented the staff report.

### **PUBLIC HEARING**

I'll be adding more minutes here.

FOR:

Don Nielsen, 620 Nokomis Court, Winston-Salem, NC 27106

Chair of Historic Properties Commission and part of merger committee.

We worked very long and hard, talked with people all over the State and reviewed ordinances from all over the State. There was compromise and a few difficult issues.

I did want to address the issue of size and composition of the Historic Resources Commission. The current committees have 19 members between them. The State recommends committees be no larger than 9 members. We decided to accommodate various interests to go with the 12 member Commission with the hope that the Commission would be diverse and again, potentially open to all citizens who have an interest in Historic Preservation, while at the same time offering sufficient expertise and experience to deal with the sometimes difficult issues, architectural and technical issues, that we have.

We decided that each district should not have it's own representative because of several reasons. There are currently three historic districts and seven more areas are talking about becoming historic districts.

We are not a legislative group. We aren't there to represent districts or specific areas.

If a district is concerned about being represented, all our meetings are public. They can come and talk with us just like we are talking with you.

They can also apply for the Historic District or Historic Overlay spot or one of the skilled spots.

We wanted to keep designated and categorical slots to a minimum so there is balance maintained on the commission and so the Commission can be open to as many interested citizens as possible.

#### AGAINST:

Charles Hotchkiss, 2123 Bethabara Road, Winston-Salem, NC 27106

Your oldest H districts which have the most economic impact on the City should have representation. If West End burned down tomorrow, there wouldn't be much economic impact on the City. If Old Salem or Bethabara burned down, it would have a major impact on the City.

As residents of Bethabara, we are controlled by the park.

We are also looking at major funds for reconstruction and maintenance in Bethabara.

Our tourist situation is entirely different than Old Salem.

We have very different safety issues.

Our residents in Bethabara have a misunderstanding of guidelines and committees and they feel they will be left out.

The residents in Bethabara feel extremely vulnerable and feel they should have some sort of say-so on the board.

Judy Briggs, 929 Goodwood Road, Winston-Salem, NC 27106

The Historic Districts will have to share a representative. There are very different needs between Old Salem and Bethabara. People see Bethabara as a place of passage whereas Old Salem is a lasting place. Bethabara is a park. Old Salem is a residential area.

There have been many differences between Bethabara residents and the Historic District Commission.

There have been no guidelines established for Bethabara Park.

There is very little connection between Bethabara Park and the Historic District Commission.

Our director is a City employee so he can't speak at the HDC meetings. (EDITORIAL NOTE: City employees are free to speak at all public hearings as are other private citizens.)

The City began at Historic Bethabara Park 250 years ago. We need to strengthen ties between the commission and Bethabara.

#### **WORK SESSION**

During discussion by the Planning Board, the following points were made:

1. There will be eleven voting members with the chair only voting to break a tie.
2. Bethabara residents can also apply for the "at-large" seats.

3. There are a lot of opportunities for staff to work pro-actively with each area in establishing and reviewing guidelines and working with districts on their planning and other activities. We have a lot of energy going into the two commissions right now. I think we need to get people sensitive to the historic district.

MOTION: John Bost moved approval of the zoning text amendment.

SECOND: Philip Doyle

VOTE:

FOR: Avant, Bost, Clark, Doyle, King, Norwood, Powell, Schroeder, Snelgrove

AGAINST: None

EXCUSED: None

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A. Paul Norby, AICP  
Director of Planning

**AN ORDINANCE  
AMENDING CHAPTER B, ARTICLE IV,  
OF THE UNIFIED DEVELOPMENT ORDINANCES  
REGARDING HISTORIC LANDMARKS AND  
HISTORIC/HISTORIC OVERLAY DISTRICTS**

Be it ordained by the Board of Commissioners of Forsyth County, North Carolina, that the Zoning Ordinance of the *Unified Development Ordinances* is hereby amended as follows:

**Section 1.** Article IV, "Historic/Historic Overlay Districts" of Chapter B "Zoning," is hereby rewritten to read as follows:

**Chapter B - Zoning Ordinance**

**Article IV - Historic Landmarks and Historic/Historic Overlay Districts**

**4-1 CREATION**

Pursuant to the authority conferred by the North Carolina General Statutes ["NCGS"] 160A - 400.1 through 400.14, the Forsyth County Board of Commissioners, the Board of Aldermen of the City of Winston-Salem, the Board of Aldermen of the Town of Kernersville, and the Village Council of Clemmons, by concurrent ordinances, do hereby create and establish a joint commission to be known as the Forsyth County Historic Resources Commission [hereinafter the "Commission"]. In establishing the Commission and making appointments to it, the Elected Bodies may seek the advice of State or local historical agencies, societies, or organizations. For purposes of this Article IV, "County/City/Town/Village" shall refer, respectively, to Forsyth County, the City of Winston-Salem, the Town of Kernersville, and the Village of Clemmons, or jointly, as the context requires.

**4-2 PURPOSE**

The historic heritage of Forsyth County is among its most valued and important assets. It is the intent of these regulations:

- (A) To safeguard the heritage of Forsyth County by preserving those areas and individual properties therein which reflect elements of its cultural, social, economic, political, or architectural history;
- (B) To stabilize and improve property values of Local Historic Landmarks and within the H and HO Districts;
- (C) To foster civic beauty; and,

- (D) To promote the use and conservation of Forsyth County's historic resources for the education, pleasure, and enrichment of residents of Forsyth County and of the State and nation as a whole.

#### **4-3 FORSYTH COUNTY HISTORIC RESOURCES COMMISSION**

The Commission is designated as the historic preservation advisory and quasi-judicial body for Forsyth County. The Commission shall consist of twelve (12) members appointed as follows: five (5) by the Forsyth County Board of Commissioners; five (5) by the Winston-Salem Board of Aldermen; one (1) by the Kernersville Board of Aldermen; and, one (1) by the Clemmons Village Council. Commission members shall serve without compensation.

##### **4-3.1 MEMBERSHIP AND ORGANIZATION**

(A) Membership

The Commission shall consist of twelve (12) members appointed as follows: five (5) by the Forsyth County Board of Commissioners; five (5) by the Winston-Salem Board of Aldermen; one (1) by the Kernersville Board of Aldermen; and one (1) by the Clemmons Village Council. In making appointments to the Commission, each Elected Body shall make a reasonable effort to balance the representation of urban and rural interests. All members shall have equal rights, privileges, and duties regardless of whether the matter at issue arises within the jurisdiction of Forsyth County, the City of Winston-Salem, the Town of Kernersville, or the Village of Clemmons.

(B) Qualifications

All members of the Commission shall reside within Forsyth County. All members of the Commission shall have a demonstrated interest or competence in, or knowledge of, historic preservation; and a majority of members shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. The Commission shall consist of six (6) at-large members and at least one (1) each of the following categories:

- Architect licensed in the State of North Carolina
- Architectural historian or historic preservationist
- Archaeologist, landscape architect/designer, planner, surveyor, or arborist
- Historic (H) District property owner
- Historic Overlay (HO) District property owner
- Local Historic Landmark (LHL) property owner



(C) Appointment of Categorical Members

The six (6) categorical members shall be appointed as follows: The Forsyth County Board of Commissioners shall appoint one (1) architect licensed in the State of North Carolina, one (1) archaeologist, landscape architect/designer, planner, surveyor, or arborist, and one (1) Local Historic Landmark (LHL) property owner; and the Winston-Salem Board of Aldermen shall appoint one (1) architectural historian or historic preservationist, one (1) Historic (H) District property owner, and one (1) Historic Overlay (HO) District property owner.

(D) Term

The length of the term of each initial appointment shall be as follows:

Forsyth County, At-Large #1	1 year
Forsyth County, At-Large #2	3 years
Architect Licensed in North Carolina	3 years
Archaeologist, Landscape Architect/Designer, Planner, Surveyor, or Arborist	1 year
Local Historic Landmark (LHL) Property Owner	2 years
Winston-Salem, At-Large #1	1 year
Winston-Salem, At-Large #2	3 years
Architectural Historian or Historic Preservationist	4 years
Historic (H) District Property Owner	2 years
Historic Overlay (HO) District Property Owner	2 years
Kernersville, At-Large	4 years
Clemmons, At-Large	4 years

In making initial appointments to the Commission, each Elected Body shall give special preference to the outgoing members of the Forsyth County Joint Historic Properties Commission and the Winston-Salem Historic Properties Commission in order to provide continuity to the work of the Commission.

The regular term of office for Commission members shall be four (4) years. Unless a jurisdiction's code of ordinances provides otherwise, a member may be reappointed for a second consecutive term, but, thereafter, a member shall be ineligible for reappointment until one (1) year has elapsed from the member's termination of service. Members shall continue in office until a successor has been appointed and qualified.

(E) Compensation

Members shall serve without compensation.

(F) Meetings

The Commission shall establish a meeting time, and shall meet at least monthly, unless there is not sufficient business to warrant a meeting. All meetings of the Commission shall be open to the public and subject to the North Carolina Open Meetings Law.

(G) Rules of Procedure

The Commission shall adopt and publish Rules of Procedure for the conduct of its business.

(H) Annual Report

An annual report shall be prepared and submitted by December of each year to the Elected Bodies. Such report shall include a comprehensive and detailed review of the activities and actions of the Commission, as well as any budget requests and/or recommendations.

(I) Meeting Minutes

The Commission shall keep permanent minutes of its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations, and other actions. The minutes of the Commission shall be a public record.

#### **4-3.2 COMMISSION POWERS**

(A) General Responsibilities of the Historic Resources Commission

The Commission shall act to promote, enhance, and preserve the character and heritage of Forsyth County.

(B) Specific Authority and Powers

The Commission shall have all powers of an historic preservation commission as provided in Part 3C of Article 19 of Chapter 160A of the NCGS including the following duties and responsibilities:

- (1) To undertake inventories of properties of historical, archaeological, architectural, and/or cultural significance;

- (2) To recommend to the Elected Bodies that individual properties be designated as Local Historic Landmarks (LHL) and/or that areas be designated as Historic (H) or Historic Overlay (HO) Districts;
- (3) To recommend that the Elected Bodies revoke historic landmark and/or district designations, in whole or part, for cause;
- (4) To review and act on proposals for exterior alteration, relocation, new construction, or demolition of, or within, designated historic landmarks or districts in accordance with 160A-400.9;
- (5) To review and act on proposals for alteration of interior features of designated historic landmarks if such features are specified in the designation ordinance;
- (6) To delay the relocation, demolition, or destruction of a designated landmark, or a building, structure, or site located within a designated historic district for not more than three hundred sixty-five (365) calendar days from the date of approval.
- (7) To negotiate with property owners who have received a Certificate of Appropriateness to demolish or relocate designated historic landmarks and/or properties within designated historic districts, in an effort to find a means of preserving the properties;
- (8) To delay demolition or destruction of buildings, sites, or structures proposed for historic landmark designation or located in areas proposed for historic district designation, for which the Commission has voted to recommend designation, for up to one hundred eighty (180) days, or until the Elected Bodies take final action on the recommendation, whichever occurs first;
- (9) To report violations of the law to the appropriate Inspections Division of the County/City/Town/Village responsible for enforcement, and/or institute action to prevent, restrain, correct, or abate violations of this Article;
- (10) To organize itself and conduct its business by whatever legal means it deems proper;
- (11) To appoint advisory bodies or committees, as appropriate;

- (12) To receive and spend funds appropriated by the Elected Bodies for operation and performance of the Commission's duties;
- (13) To accept funds granted to the Commission from private or nonprofit organizations or individuals;
- (14) To contract for services or funds from the State of North Carolina and agencies or departments of the United States government;
- (15) To obtain the services of private consultants in order to perform the Commission's official duties;
- (16) To negotiate with property owners for acquisition or protection of historic properties;
- (17) To acquire under Commission ownership, manage, and dispose of properties designated as historic landmarks or within designated historic districts, pursuant to NCGS 160A-400.8(3);
- (18) To enter private lands to examine or survey them, at reasonable times and with the consent of the owner or occupant, in order to perform the Commission's official duties;
- (19) To give advice to property owners concerning treatment of the historic and related visual characteristics of their properties;
- (20) To conduct educational programs on historic resources within Forsyth County;
- (21) To publish information about, or otherwise inform the public and/or owners of designated historic landmarks or property within designated historic districts of any matters pertinent to the Commission's duties, organization, procedures, responsibilities, functions, or requirements;
- (22) To undertake programs of information, research, or analysis relating to any matters under the Commission's purview;
- (23) To recommend to the Elected Bodies and the State of North Carolina buildings, structures, sites, objects, or districts worthy of national, State, or local recognition;
- (24) To cooperate with State and federal governments on matters related to historic preservation;

- (25) To cooperate with local governmental boards, commissions, or agencies or other governmental units; and, to offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest;
- (26) To prepare and recommend adoption of a preservation element as part of a comprehensive plan for the County/City/Town/Village;
- (27) To propose to the Elected Bodies changes to this or any related ordinance, and to propose new ordinances or laws relating to designated historic landmarks or districts, or relating to the total program for the development of the historic resources of Forsyth County; and,
- (28) To exercise such other powers and perform such other duties as are required elsewhere by this Ordinance, State law, or by the Elected Bodies.

#### **4-4 LOCAL HISTORIC LANDMARK (LHL) DESIGNATION**

##### **4-4.1 DESIGNATION APPLICATION**

A property owner, or other interested party, may request that a property be designated as a Local Historic Landmark (LHL) by application to the Commission. Requests for designation shall be made on forms provided by the Commission. An application fee may be required by the Commission for processing of the application.

##### **4-4.2 DESIGNATION CRITERIA**

The Commission shall adopt local criteria by which properties may be considered for designation as historic landmarks.

##### **4-4.3 DESIGNATION PROCEDURES**

No ordinance designating an historic landmark nor any amendment thereto may be adopted, nor may any designated historic landmark be accepted or acquired by the Commission until the following procedural steps have been taken:

- (A) The Commission shall adopt Rules of Procedure.
- (B) The Commission shall prepare and adopt principles and design review guidelines for altering, restoring, moving, or demolishing properties designated as historic landmarks.

- (C) In accordance with NCGS 160A-400.6(2), the Commission shall make or cause to be made an investigation and report on the archaeological, historical, architectural, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. The investigation and report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.
- (D) In accordance with NCGS 160A-400.6(3), the North Carolina Department of Cultural Resources shall be given the opportunity to review and comment upon the substance and effect of the designation of any historic landmark. Any comments shall be provided in writing. If the Department of Cultural Resources does not submit its comments within thirty (30) days following receipt by the Department of the investigation and report, the Commission and the Elected Body are relieved of any responsibility to consider such comments.
- (E) The Commission shall hold a public hearing on the proposed designation ordinance. It shall recommend to the Elected Body, as appropriate, approval of designation or denial of designation of the proposed historic landmark.
- (F) The Elected Body, as appropriate, shall hold a public hearing on the proposed designation ordinance. Following the public hearing, the Elected Body may adopt the designation ordinance as proposed, adopt the designation ordinance with any amendments it deems necessary, or reject the proposal.
- (G) Upon adoption of the designation ordinance, the following provisions shall apply:
  - (1) The owners and occupants of each designated historic landmark shall be given written notification of such designation by Commission staff, insofar as reasonable diligence permits.
  - (2) One (1) copy of the ordinance and each amendment thereto shall be filed by the Commission staff in the office of the Register of Deeds of Forsyth County. Each historic landmark designated in the ordinance shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds office.
  - (3) One (1) copy of the ordinance and each amendment thereto shall be given to the appropriate Inspections Division.
  - (4) One (1) copy of the ordinance and each amendment thereto shall be kept on file in the office of the appropriate County/City/Town/Village Clerk, and made available for public inspection at any reasonable time.

- (5) The fact that a building, structure, site, area or object has been designated as an historic landmark shall be clearly indicated on all tax maps maintained by Forsyth County for such period as the designation remains in effect.
- (6) The Commission shall give notice of the adoption of a designation ordinance and any amendment thereof to the Forsyth County Tax Supervisor. The designation and any recorded restriction upon the property limiting its use for preservation purposes shall be considered by the Tax Supervisor in appraising the property for tax purposes.

#### **4-5 HISTORIC DISTRICTS -- ESTABLISHMENT AND AMENDMENT**

The following Historic Districts are hereby established.

##### **4-5.1 H HISTORIC DISTRICT**

- (A) The H District is established as a separate use district. The purpose of the H District is to:
  - (1) Safeguard the heritage of the community by preserving those areas that embody important elements of the community's culture, history, architectural history, or archaeology; and,
  - (2) Promote the use and conservation of such areas for the education, pleasure, and enrichment of the residents of Forsyth County and the State.
- (B) The boundaries of the H Districts are shown on the Official Zoning Maps.

##### **4-5.2 HO HISTORIC OVERLAY DISTRICT**

- (A) The HO District is established as a district which overlays existing zoning districts in designated historic areas. The purpose of the HO District is to:
  - (1) Safeguard the heritage of the community by preserving those areas that embody important elements of the community's culture, history, architectural history, or archaeology; and,
  - (2) Promote the use and conservation of such areas for the education, pleasure, and enrichment of the residents of Forsyth County and the State.
- (B) The boundaries of the HO Districts are shown on the Official Zoning Maps.

### 4-5.3 ESTABLISHMENT AND AMENDMENT PROCEDURE

#### (A) Establishment

The Elected Bodies may designate one or more geographic areas as an H or HO District. The following shall be the procedure for establishing H or HO Districts:

- (1) Requests for establishment of H or HO Districts may be made in any one of the following methods:
  - (a) by the Elected Bodies of Forsyth County;
  - (b) by property owners within an affected area;
  - (c) by a neighborhood group, association, or coalition;
  - (d) at the initiative of the Commission.
- (2) All requests shall first be presented to the Commission. The Commission shall conduct a preliminary consideration of the request to determine the eligibility of the general area proposed to become an H or HO District.
- (3) If the Commission determines by vote that said general area is ineligible to become an H or HO District, the Commission shall report such determination to the appropriate Elected Body. The Elected Body may accept the determination of the Commission, or it may direct the Commission to proceed in accordance with this Article as if the Commission's determination had been that said general area was eligible to become an H or HO District.
- (4) If the Commission determines by vote that said general area is eligible to become an H or HO District, it shall notify property owners within said general area, through first class mail, that establishment of a designated historic district has been proposed and that the formation of a task force to prepare a detailed study for such establishment will be considered by the Commission at a specified date and time.
- (5) The Commission may appoint a task force to develop design review guidelines and boundaries for said general area. The task force shall be composed primarily of individuals representing various interests in said general area.
- (6) After developing design review guidelines and boundaries, the task force shall report to the Commission.
- (7) The Commission shall review the design review guidelines and boundaries and shall then vote on whether to accept the task force report.



- (8) Once the task force report has been accepted, the Commission shall schedule at least two (2) public informational meetings about the proposed district. Property owners within the proposed boundary area shall be notified of the public informational meetings through first class mail and through notice in a newspaper having general circulation in the area.
- (9) The Commission shall hold the public informational meetings and receive questions and comments.
- (10) The Commission shall consider revisions to the proposed design review guidelines and boundaries, as necessary, and prepare final proposed design review guidelines and boundaries.
- (11) The Commission shall prepare and submit a report to the Director of Planning and the North Carolina Department of Cultural Resources. The report shall include, but not be limited to, the following information:
  - (a) A boundary description of the area;
  - (b) A map at a scale of not less than one inch represents two hundred (200) feet (1" equals 200'), showing the boundaries of the proposed area; and,
  - (c) A description of the significance of the area, including its buildings, structures, features, sites, or surroundings.
- (12) The North Carolina Department of Cultural Resources shall submit an analysis of, and recommendations concerning, the report described in Section 4-5.3(A)(11) above to the Elected Body. Failure of the North Carolina Department of Cultural Resources to submit written analysis and recommendations to the Elected Body within thirty (30) calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the County/City/Town/Village of any responsibility for awaiting such analysis, and the Elected Body may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.
- (13) Once all the previous procedural steps have been met, an application for rezoning the said general area to an H or HO District shall be accepted. The County/City/Town/Village shall proceed in the same manner as would otherwise be required for a change in the Zoning Ordinance and the request shall be processed according to the procedures set forth in Chapter B, Section 6-2 of the Zoning Ordinance. In addition, the design review guidelines for the proposed district shall be made available to the Elected Body for its review and comment.

- (14) Sections 4-5.3(A)(1)-(9) shall not apply to a rezoning petition for a proposed H or HO District for which a task force has been previously appointed to study said general area and has submitted a report to the Commission.

(B) Amendment

The following shall be required to amend, supplement, change, modify, or repeal any district boundaries of the H or HO Districts.

- (1) The Commission shall prepare and submit a report to the Director of Planning and the North Carolina Department of Cultural Resources. The report shall include, but not be limited to, the following information:
  - (a) A boundary description of the area;
  - (b) A map at a scale of not less than one inch represents two hundred (200) feet (1" equals 200'), showing the boundaries of the proposed area; and,
  - (c) A description of the significance of the area, including its buildings, structures, features, sites, or surroundings.
- (2) The North Carolina Department of Cultural Resources shall include an analysis of and recommendations concerning the report described in Section 4-5.3(B)(1) above to the Elected Body. Failure of the North Carolina Department of Cultural Resources to submit written analysis and recommendations to the Elected Body within thirty (30) calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the County/City/Town/Village of any responsibility for awaiting such analysis, and the Elected Body may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.
- (3) Once all the previous procedural steps have been met, an application to amend, supplement, change, modify, or repeal any district boundaries of the H or HO Districts shall be accepted. The County/City/Town/Village shall proceed in the same manner as would otherwise be required for a change in the Zoning Ordinance and the request shall be processed according to the procedures set forth in Chapter B, Section 6-2 of the Zoning Ordinance.

## **4-6 H AND HO DISTRICT USES AND DIMENSIONAL REQUIREMENTS**

### **4-6.1 H DISTRICT REGULATIONS**

#### **(A) Permitted Uses**

In H Districts, the following principal and accessory uses are permitted:

- (1) Any use found by the Commission to have existed on the particular property in or prior to 1856 in the Old Salem Historic District, and in or prior to 1832 in the Bethabara Historic District;
- (2) Any single family residential use which is allowed without a special use permit from the Board of Adjustment;
- (3) A religious institution, college or university, or operation of an historic preservation organization with purposes related to the district; and,
- (4) Uses normally accessory to the principal uses permitted above.

#### **(B) Nonconforming Uses**

Prior to its acting upon an application for a special use permit pursuant to Chapter B, Section 6-2 of the Zoning Ordinance to expand or convert a nonconforming use in the H Districts, the Board of Adjustment shall first receive the recommendation of the Commission with respect to such application.

#### **(C) Dimensional Requirements for New Construction**

- (1) Requirements. All buildings and structures in the H Districts shall comply with the following yard and height provisions:
  - (a) Front Yard. No building or part of a building, other than steps, open porches, overhanging eaves, and cornices, shall extend nearer to a front street line than the average distance of the setbacks of the principal buildings on the same block and on the same side of the street within one hundred (100) feet from the zoning lot in either direction. Provided, however, that in no case shall the front setback be less than eight (8) feet, and no building shall be required to set back more than forty (40) feet from the front street line.
  - (b) Side Yards. There shall be a side yard of not less than seven (7) feet on each side of the principal building. This restriction shall not apply to accessory buildings.

- (c) Rear Yard. There shall be a rear yard with a depth of not less than thirty-five (35) feet. When a building extends through from street to street, the front yard restrictions shall be observed on both streets.
- (d) Height. No building shall exceed a height of thirty-five (35) feet.

- (2) Exceptions to Dimensional Requirements Due to Authentic Restoration and Reconstruction. In the event that the Commission finds that an application for a building permit covers activity constituting an authentic restoration or reconstruction of a building or structure that existed at the same location in or prior to 1856 in the Old Salem Historic District or in or prior to 1832 in the Bethabara Historic District, said building or structure may be restored or reconstructed at the same location where the original building or structure was located.

Any items restored, reconstructed, or maintained over, on, or within public sidewalks, public alley areas, or other such public way shall be the responsibility of the owner. The owner's restoration, reconstruction, or maintenance of any such item shall constitute the owner's agreement to protect and hold the County/City/Town/Village blameless against any and all liability, cost, damage, or expense suffered or sustained by the County/City/Town/Village as a result of or growing out of the restoration, reconstruction, or maintenance. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the street or alley shall be, at its lowest point, seven (7) feet above the travel way. The provisions of this subsection shall prevail over inconsistent or conflicting provisions of this Ordinance.

- (D) Animals

In the H Districts, the keeping of swine, goats, geese, or peafowl is allowed.

#### **4-6.2 HO DISTRICT REGULATIONS**

- (A) Permitted Uses

The HO District is established as a district which overlays existing residential and nonresidential zoning districts in certain areas with historic resources. All uses permitted in these residential and nonresidential districts, whether by right or as a special use, shall be permitted in the HO District according to the procedures established for such uses.

(B) Dimensional Requirements

- (1) Requirements. All buildings and structures in the HO Districts shall comply with the dimensional requirements established in the design review guidelines adopted for each separate HO District. Design review guidelines are addressed in Section 4-7.5.
- (2) Exceptions to Dimensional Requirements Due to Authentic Restoration or Reconstruction. In the event that the Commission finds that an application for a building permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original conformation of the structure of historic and/or architectural significance to the HO District, said building or structure may be restored or reconstructed at the same location where the original building or structure was located.

Any items restored, reconstructed, or maintained over, on, or within public sidewalks, public alley areas, or other such public way shall be the responsibility of the owner. The owner's restoration, reconstruction, or maintenance of any such item shall constitute the owner's agreement to protect and hold the County/City/Town/Village blameless against any and all liability, cost, damage, or expense suffered or sustained by the County/City/Town/Village as a result of or growing out of the restoration, reconstruction, or maintenance. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the street or alley shall be, at its lowest point, twelve (12) feet above the travel way. The provisions of this subsection shall prevail over inconsistent or conflicting provisions of this Ordinance.

(C) Parking Variance

Where the Commission, in considering an application for a certificate of appropriateness, finds that the number of off-street parking spaces required by this Ordinance for a building or structure for which a building permit is required would render the building incongruous with the historic aspects of the designated district, it may recommend to the Board of Adjustment a variance, in part or in whole, of the off-street parking requirements. The Board of Adjustment may authorize a lesser number of off-street parking spaces, provided:

- (1) The Board of Adjustment finds that the lesser number of off-street parking spaces will not create problems due to increased on-street parking; and,

- (2) The Board of Adjustment finds that the lesser number of off-street parking spaces will not constitute a threat to the public safety.

#### **4-7 CERTIFICATE OF APPROPRIATENESS**

##### **4-7.1 REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS FOR LOCAL HISTORIC LANDMARKS (LHL)**

From and after the designation of a Local Historic Landmark (LHL), no designated portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished on such designated historic landmark until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Guidelines either through consultation with Commission staff or review of the Design Review Guidelines.

The City/County/Town/Village shall require a Certificate of Appropriateness 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 Ordinance.

If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in Section 4-7.5.

A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.

For the purposes of the section, the term "designated portion" shall mean any portion of a designated historic landmark that was included in the ordinance designating the landmark, including the main structure or structures, the interior or portions of the interior, any outbuildings or secondary structures, site elements, and landscaping.

Where the exterior of a building or structure is designated as an historic landmark, the term "exterior features" shall mean 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 or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. 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. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

#### **4-7.2 REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS IN HISTORIC AND HISTORIC OVERLAY DISTRICTS**

Within an H or HO District, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Guidelines either through consultation with Commission staff or review of the appropriate Design Review Guidelines.

The City/County/Town/Village shall require a Certificate of Appropriateness 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 Ordinance.

If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in Section 4-7.5.

A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.

For the purposes of the section, the term "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 or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. 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. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

### **4-7.3 CIRCUMSTANCES NOT REQUIRING CERTIFICATES OF APPROPRIATENESS**

No certificate of appropriateness shall be required for:

- (A) The routine maintenance or repair, as defined in the applicable design review guidelines, of any exterior architectural feature in an H or HO District or on a Local Historic Landmark (LHL) which does not involve a change in design, material, or outer appearance;
- (B) The construction, reconstruction, alteration, restoration, moving, or demolition of any such feature which the building inspector or similar official shall certify in writing to the property owner and to the Commission is required by the public safety because of an unsafe or dangerous condition; and,
- (C) The maintenance of any existing above-ground utility structure or, in the event of an emergency, the immediate restoration of any existing above-ground utility structure.

### **4-7.4 PROCEDURES**

The following procedures shall govern the issuance of a Certificate of Appropriateness.

#### **(A) Applications**

Application for a Certificate of Appropriateness shall be submitted to Commission staff on forms provided. The Commission shall, in its Rules of Procedure, require such data and information as is reasonably necessary to evaluate the nature of the application. An application for a Certificate of Appropriateness shall not be considered complete until all required information has been submitted. For properties within H and HO Districts, the names and mailing addresses of the property owners filing the application and the names and addresses of the property owners within one hundred (100) feet on all sides of the property which is the subject of the application must also be filed.

#### **(B) Application to Historic Resources Commission**

Commission staff shall transmit the Certificate of Appropriateness application, together with the supporting information and material, to the Commission for consideration.



(C) Notice and Hearing Within H and HO Districts

Commission staff will make a reasonable attempt to identify and notify by mail the owners of any property located within one hundred (100) feet on all sides of the property which is the subject of the application. Prior to issuance or denial of a Certificate of Appropriateness, the Commission shall give the applicant and other property owners and/or residents likely to be affected by the application an opportunity to be heard.

(D) Viewing Site

As part of its review procedure, the Commission may, solely in performance of its official duties and only at reasonable times, enter upon private lands to view the premises. However, no member, employee, or agent of the Commission may enter any private building or structure without the express permission of the owner or occupant thereof. Additionally, the Commission may seek the advice of the North Carolina Division of Archives and History or such other expert advice as the Commission may deem necessary.

(E) Time for Action

The Commission shall act upon complete applications within one-hundred-twenty (120) calendar days after the filing, unless an extension of time has been mutually agreed upon between the Commission and the applicant. Otherwise, failure to act upon a complete application shall be deemed to constitute approval and a Certificate of Appropriateness shall be issued.

(F) Form of Decision

All formal actions of the Commission shall be set forth in writing. In case of approval, the Commission shall transmit to the property owner a Certificate of Appropriateness clearly describing the work that has been approved, and any conditions of the approval. In case of denial, the Commission shall transmit to the property owner a letter stating the findings on which the decision was based. Additionally, the Commission may, as it deems appropriate, make recommendations concerning any exterior or interior (where applicable), features of the proposed project which may be of guidance and help to the applicant in revising the plans and application. The Commission shall also provide the Zoning Officer with a copy of the formal correspondence to the property owner.

(G) Time Limits

Each Certificate of Appropriateness is issued subject to the following two conditions: (1) If a building permit is required to perform all or any part of the work authorized by a Certificate of Appropriateness, such building permit must be procured within six months from the date the Certificate of Appropriateness was issued; and, (2) If a building permit is not required for any part of the work authorized by a Certificate of Appropriateness, such work must be completed within six months from the date the Certificate of Appropriateness was issued. Upon failure to comply with the applicable condition, the Certificate of Appropriateness shall expire, subject to its being renewed. If a request is made to renew an expired Certificate of Appropriateness within twelve months of its issuance, Commission staff may renew it. All other renewals of an expired Certificate of Appropriateness may only be made by the Commission. A Certificate of Appropriateness shall be renewed unless it is found that a change has occurred that would allow the work authorized by the expired Certificate of Appropriateness to impair the integrity of an historic landmark, property, or district as a whole or would be incongruous with the special character of an historic landmark, property, or district. No request to renew that contemplates substantive changes to the work authorized by the expired Certificate of Appropriateness may be granted. Such a request may be made by submitting an application for a new Certificate of Appropriateness.

(H) Approval of Minor Works

The Commission may delegate to Commission staff the review and approval of minor works for the Local Historic Landmarks (LHL), and for the Historic (H) and Historic Overlay (HO) Districts after approval of Design Review Guidelines for the Local Historic Landmarks (LHL) and each Historic (H) and Historic Overlay (HO) District. Minor works are defined as projects which do not involve substantial alterations, additions, or removals that could impair the integrity of an historic landmark, property, and/or a district as a whole or be incongruous with the special character of an historic landmark, property, or district. Minor works require a Certificate of Appropriateness. A minor works application may be filed at any time and no public notification is required for review of a minor work application. No minor works application may be denied by Commission staff. If Commission staff cannot approve a minor works application, it shall be presented to the Commission for review and formal action.

(I) Reapplication after Denial

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 the application, or if conditions related to the Local Historic Landmark (LHL) or H or HO District or surrounding uses have changed. A reconsidered application shall be treated as a new application.

(J) Demolition Permits

An application for a Certificate of Appropriateness authorizing the relocation or demolition of a designated historic landmark or building or structure within an H or HO District may not be denied; however, the effective date of such Certificate may be delayed for not more than three hundred and sixty-five (365) calendar days from the date of approval. The maximum delay may be reduced by the Commission when it finds that delay would impose an extreme hardship on the owner or would permanently deprive the owner of all beneficial use or return from such property from such delay. During the period of delay, the Commission may negotiate with the owner and other parties in an effort to preserve the building or structure. If the Commission finds that the building or structure has no particular significance or value toward maintaining the character of the designated landmark or district, it shall waive all or part of such period and authorize earlier demolition or removal.

(K) Applicability to County, City, Town, Village and Utility Companies

The County/City/Town/Village and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating on a Local Historic Landmark (LHL) or in an H or HO District any changes in the character of street paving, sidewalks, trees, utility installations, walls, lighting, fences, structures, and buildings on property, easements, or streets owned or franchised by the County/City/Town/Village or public utility companies.

(L) Appeals

An appeal of a decision of the Commission in granting or denying any Certificate of Appropriateness may be taken to the appropriate Board of Adjustment. Appeals may be taken by any aggrieved party within thirty (30) calendar days after the decision of the Commission and shall be in the nature of certiorari (only evidence presented at the Commission's meeting shall be considered at the appeal). Appeal from the decision of the Board of Adjustment shall be to the Forsyth County Superior Court.

(M) Inspection after Issuance of Certificate

The Zoning Officer shall from time to time inspect the construction or alteration approved by a Certificate of Appropriateness and report to the Commission any work not in conformance with the Certificate of Appropriateness.

#### **4-7.5 STANDARDS FOR REVIEW**

A Certificate of Appropriateness shall be issued or denied in accordance with the following standards.

(A) General Criteria

In granting a Certificate of Appropriateness, the Commission shall take into account the historic or architectural significance of the property under consideration and the exterior and interior (where applicable), form and appearance of any proposed additions or modifications to a structure. The Commission shall not consider interior arrangement in H and HO Districts.

(B) General Restriction on Denial

The Commission shall not refuse to issue a Certificate of Appropriateness except for the purpose of preventing the construction, reconstruction, alteration, restoration, or moving of buildings, structures, appurtenant features, or outdoor advertising signs which would be incompatible with the Design Review Guidelines.

(C) Design Review Guidelines Required

The requirement for a Certificate of Appropriateness shall not become effective until after the Commission has prepared and adopted principles and guidelines not inconsistent with Part 3C of Article 19 of Chapter 160A of the NCGS. Such principles and guidelines, hereafter referred to as Design Review Guidelines, shall be prepared for the Local Historic Landmarks (LHL), and for each H and/or HO District and shall address new construction, alterations, additions, moving, and demolition to properties and/or sites. These criteria shall take into account the historic, architectural, and visual elements which are unique to the designated landmarks and districts.

(D) Design Review Guidelines Amendment

Prior to the amendment of design review guidelines for the Local Historic Landmarks (LHL) or any H or HO District, any person may comment upon the proposal. Not less than forty-five (45) days prior to the public hearing at which the Commission proposes to act upon the amendment(s), copies of the proposed amendment(s) shall be made available to the Elected Bodies, and any other interested person upon request. Concurrently, the Commission shall cause notice of the public hearing at which the proposed amendment(s) will be considered for adoption to be published in a newspaper of general circulation in Winston-Salem.

**4-8 COMPLIANCE**

Compliance with the provisions of this section shall be enforced by the appropriate Zoning Officer. Failure to comply with this Section and provisions of a Certificate of Appropriateness shall be unlawful and a violation of the Zoning Ordinance, and all remedies authorized by law for noncompliance with this Ordinance may be exercised to enforce this section.

**Section 2.** This ordinance shall become effective June 1, 2001.

**AN ORDINANCE  
AMENDING CHAPTER B, ARTICLE IV,  
OF THE UNIFIED DEVELOPMENT ORDINANCES  
REGARDING HISTORIC LANDMARKS AND  
HISTORIC/HISTORIC OVERLAY DISTRICTS**

Be it ordained by the Board of Aldermen of the City of Winston-Salem, North Carolina, that the Zoning Ordinance of the *Unified Development Ordinances* is hereby amended as follows:

**Section 1.** Article IV, "Historic/Historic Overlay Districts" of Chapter B "Zoning," is hereby rewritten to read as follows:

**Chapter B - Zoning Ordinance**

**Article IV - Historic Landmarks and Historic/Historic Overlay Districts**

**4-1 CREATION**

Pursuant to the authority conferred by the North Carolina General Statutes ["NCGS"] 160A - 400.1 through 400.14, the Forsyth County Board of Commissioners, the Board of Aldermen of the City of Winston-Salem, the Board of Aldermen of the Town of Kernersville, and the Village Council of Clemmons, by concurrent ordinances, do hereby create and establish a joint commission to be known as the Forsyth County Historic Resources Commission [hereinafter the "Commission"]. In establishing the Commission and making appointments to it, the Elected Bodies may seek the advice of State or local historical agencies, societies, or organizations. For purposes of this Article IV, "County/City/Town/Village" shall refer, respectively, to Forsyth County, the City of Winston-Salem, the Town of Kernersville, and the Village of Clemmons, or jointly, as the context requires.

**4-2 PURPOSE**

The historic heritage of Forsyth County is among its most valued and important assets. It is the intent of these regulations:

- (A) To safeguard the heritage of Forsyth County by preserving those areas and individual properties therein which reflect elements of its cultural, social, economic, political, or architectural history;
- (B) To stabilize and improve property values of Local Historic Landmarks and within the H and HO Districts;
- (C) To foster civic beauty; and,

- (D) To promote the use and conservation of Forsyth County's historic resources for the education, pleasure, and enrichment of residents of Forsyth County and of the State and nation as a whole.

#### **4-3 FORSYTH COUNTY HISTORIC RESOURCES COMMISSION**

The Commission is designated as the historic preservation advisory and quasi-judicial body for Forsyth County. The Commission shall consist of twelve (12) members appointed as follows: five (5) by the Forsyth County Board of Commissioners; five (5) by the Winston-Salem Board of Aldermen; one (1) by the Kernersville Board of Aldermen; and, one (1) by the Clemmons Village Council. Commission members shall serve without compensation.

##### **4-3.1 MEMBERSHIP AND ORGANIZATION**

(A) Membership

The Commission shall consist of twelve (12) members appointed as follows: five (5) by the Forsyth County Board of Commissioners; five (5) by the Winston-Salem Board of Aldermen; one (1) by the Kernersville Board of Aldermen; and one (1) by the Clemmons Village Council. In making appointments to the Commission, each Elected Body shall make a reasonable effort to balance the representation of urban and rural interests. All members shall have equal rights, privileges, and duties regardless of whether the matter at issue arises within the jurisdiction of Forsyth County, the City of Winston-Salem, the Town of Kernersville, or the Village of Clemmons.

(B) Qualifications

All members of the Commission shall reside within Forsyth County. All members of the Commission shall have a demonstrated interest or competence in, or knowledge of, historic preservation; and a majority of members shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. The Commission shall consist of six (6) at-large members and at least one (1) each of the following categories:

- Architect licensed in the State of North Carolina
- Architectural historian or historic preservationist
- Archaeologist, landscape architect/designer, planner, surveyor, or arborist
- Historic (H) District property owner
- Historic Overlay (HO) District property owner
- Local Historic Landmark (LHL) property owner

(C) Appointment of Categorical Members

The six (6) categorical members shall be appointed as follows: The Forsyth County Board of Commissioners shall appoint one (1) architect licensed in the State of North Carolina, one (1) archaeologist, landscape architect/designer, planner, surveyor, or arborist, and one (1) Local Historic Landmark (LHL) property owner; and the Winston-Salem Board of Aldermen shall appoint one (1) architectural historian or historic preservationist, one (1) Historic (H) District property owner, and one (1) Historic Overlay (HO) District property owner.

(D) Term

The length of the term of each initial appointment shall be as follows:

Forsyth County, At-Large #1	1 year
Forsyth County, At-Large #2	3 years
Architect Licensed in North Carolina	3 years
Archaeologist, Landscape Architect/Designer, Planner, Surveyor, or Arborist	1 year
Local Historic Landmark (LHL) Property Owner	2 years
Winston-Salem, At-Large #1	1 year
Winston-Salem, At-Large #2	3 years
Architectural Historian or Historic Preservationist	4 years
Historic (H) District Property Owner	2 years
Historic Overlay (HO) District Property Owner	2 years
Kernersville, At-Large	4 years
Clemmons, At-Large	4 years

In making initial appointments to the Commission, each Elected Body shall give special preference to the outgoing members of the Forsyth County Joint Historic Properties Commission and the Winston-Salem Historic Properties Commission in order to provide continuity to the work of the Commission.

The regular term of office for Commission members shall be four (4) years. Unless a jurisdiction's code of ordinances provides otherwise, a member may be reappointed for a second consecutive term, but, thereafter, a member shall be ineligible for reappointment until one (1) year has elapsed from the member's termination of service. Members shall continue in office until a successor has been appointed and qualified.

(E) Compensation

Members shall serve without compensation.



(F) Meetings

The Commission shall establish a meeting time, and shall meet at least monthly, unless there is not sufficient business to warrant a meeting. All meetings of the Commission shall be open to the public and subject to the North Carolina Open Meetings Law.

(G) Rules of Procedure

The Commission shall adopt and publish Rules of Procedure for the conduct of its business.

(H) Annual Report

An annual report shall be prepared and submitted by December of each year to the Elected Bodies. Such report shall include a comprehensive and detailed review of the activities and actions of the Commission, as well as any budget requests and/or recommendations.

(I) Meeting Minutes

The Commission shall keep permanent minutes of its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations, and other actions. The minutes of the Commission shall be a public record.

#### **4-3.2 COMMISSION POWERS**

(A) General Responsibilities of the Historic Resources Commission

The Commission shall act to promote, enhance, and preserve the character and heritage of Forsyth County.

(B) Specific Authority and Powers

The Commission shall have all powers of an historic preservation commission as provided in Part 3C of Article 19 of Chapter 160A of the NCGS including the following duties and responsibilities:

- (1) To undertake inventories of properties of historical, archaeological, architectural, and/or cultural significance;

- (2) To recommend to the Elected Bodies that individual properties be designated as Local Historic Landmarks (LHL) and/or that areas be designated as Historic (H) or Historic Overlay (HO) Districts;
- (3) To recommend that the Elected Bodies revoke historic landmark and/or district designations, in whole or part, for cause;
- (4) To review and act on proposals for exterior alteration, relocation, new construction, or demolition of, or within, designated historic landmarks or districts in accordance with 160A-400.9;
- (5) To review and act on proposals for alteration of interior features of designated historic landmarks if such features are specified in the designation ordinance;
- (6) To delay the relocation, demolition, or destruction of a designated landmark, or a building, structure, or site located within a designated historic district for not more than three hundred sixty-five (365) calendar days from the date of approval.
- (7) To negotiate with property owners who have received a Certificate of Appropriateness to demolish or relocate designated historic landmarks and/or properties within designated historic districts, in an effort to find a means of preserving the properties;
- (8) To delay demolition or destruction of buildings, sites, or structures proposed for historic landmark designation or located in areas proposed for historic district designation, for which the Commission has voted to recommend designation, for up to one hundred eighty (180) days, or until the Elected Bodies take final action on the recommendation, whichever occurs first;
- (9) To report violations of the law to the appropriate Inspections Division of the County/City/Town/Village responsible for enforcement, and/or institute action to prevent, restrain, correct, or abate violations of this Article;
- (10) To organize itself and conduct its business by whatever legal means it deems proper;
- (11) To appoint advisory bodies or committees, as appropriate;

- (12) To receive and spend funds appropriated by the Elected Bodies for operation and performance of the Commission's duties;
- (13) To accept funds granted to the Commission from private or nonprofit organizations or individuals;
- (14) To contract for services or funds from the State of North Carolina and agencies or departments of the United States government;
- (15) To obtain the services of private consultants in order to perform the Commission's official duties;
- (16) To negotiate with property owners for acquisition or protection of historic properties;
- (17) To acquire under Commission ownership, manage, and dispose of properties designated as historic landmarks or within designated historic districts, pursuant to NCGS 160A-400.8(3);
- (18) To enter private lands to examine or survey them, at reasonable times and with the consent of the owner or occupant, in order to perform the Commission's official duties;
- (19) To give advice to property owners concerning treatment of the historic and related visual characteristics of their properties;
- (20) To conduct educational programs on historic resources within Forsyth County;
- (21) To publish information about, or otherwise inform the public and/or owners of designated historic landmarks or property within designated historic districts of any matters pertinent to the Commission's duties, organization, procedures, responsibilities, functions, or requirements;
- (22) To undertake programs of information, research, or analysis relating to any matters under the Commission's purview;
- (23) To recommend to the Elected Bodies and the State of North Carolina buildings, structures, sites, objects, or districts worthy of national, State, or local recognition;
- (24) To cooperate with State and federal governments on matters related to historic preservation;

- (25) To cooperate with local governmental boards, commissions, or agencies or other governmental units; and, to offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest;
- (26) To prepare and recommend adoption of a preservation element as part of a comprehensive plan for the County/City/Town/Village;
- (27) To propose to the Elected Bodies changes to this or any related ordinance, and to propose new ordinances or laws relating to designated historic landmarks or districts, or relating to the total program for the development of the historic resources of Forsyth County; and,
- (28) To exercise such other powers and perform such other duties as are required elsewhere by this Ordinance, State law, or by the Elected Bodies.

#### **4-4 LOCAL HISTORIC LANDMARK (LHL) DESIGNATION**

##### **4-4.1 DESIGNATION APPLICATION**

A property owner, or other interested party, may request that a property be designated as a Local Historic Landmark (LHL) by application to the Commission. Requests for designation shall be made on forms provided by the Commission. An application fee may be required by the Commission for processing of the application.

##### **4-4.2 DESIGNATION CRITERIA**

The Commission shall adopt local criteria by which properties may be considered for designation as historic landmarks.

##### **4-4.3 DESIGNATION PROCEDURES**

No ordinance designating an historic landmark nor any amendment thereto may be adopted, nor may any designated historic landmark be accepted or acquired by the Commission until the following procedural steps have been taken:

- (A) The Commission shall adopt Rules of Procedure.
- (B) The Commission shall prepare and adopt principles and design review guidelines for altering, restoring, moving, or demolishing properties designated as historic landmarks.

- (C) In accordance with NCGS 160A-400.6(2), the Commission shall make or cause to be made an investigation and report on the archaeological, historical, architectural, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. The investigation and report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.
- (D) In accordance with NCGS 160A-400.6(3), the North Carolina Department of Cultural Resources shall be given the opportunity to review and comment upon the substance and effect of the designation of any historic landmark. Any comments shall be provided in writing. If the Department of Cultural Resources does not submit its comments within thirty (30) days following receipt by the Department of the investigation and report, the Commission and the Elected Body are relieved of any responsibility to consider such comments.
- (E) The Commission shall hold a public hearing on the proposed designation ordinance. It shall recommend to the Elected Body, as appropriate, approval of designation or denial of designation of the proposed historic landmark.
- (F) The Elected Body, as appropriate, shall hold a public hearing on the proposed designation ordinance. Following the public hearing, the Elected Body may adopt the designation ordinance as proposed, adopt the designation ordinance with any amendments it deems necessary, or reject the proposal.
- (G) Upon adoption of the designation ordinance, the following provisions shall apply:
  - (1) The owners and occupants of each designated historic landmark shall be given written notification of such designation by Commission staff, insofar as reasonable diligence permits.
  - (2) One (1) copy of the ordinance and each amendment thereto shall be filed by the Commission staff in the office of the Register of Deeds of Forsyth County. Each historic landmark designated in the ordinance shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds office.
  - (3) One (1) copy of the ordinance and each amendment thereto shall be given to the appropriate Inspections Division.
  - (4) One (1) copy of the ordinance and each amendment thereto shall be kept on file in the office of the appropriate County/City/Town/Village Clerk, and made available for public inspection at any reasonable time.

- (5) The fact that a building, structure, site, area or object has been designated as an historic landmark shall be clearly indicated on all tax maps maintained by Forsyth County for such period as the designation remains in effect.
- (6) The Commission shall give notice of the adoption of a designation ordinance and any amendment thereof to the Forsyth County Tax Supervisor. The designation and any recorded restriction upon the property limiting its use for preservation purposes shall be considered by the Tax Supervisor in appraising the property for tax purposes.

#### **4-5 HISTORIC DISTRICTS -- ESTABLISHMENT AND AMENDMENT**

The following Historic Districts are hereby established.

##### **4-5.1 H HISTORIC DISTRICT**

- (A) The H District is established as a separate use district. The purpose of the H District is to:
  - (1) Safeguard the heritage of the community by preserving those areas that embody important elements of the community's culture, history, architectural history, or archaeology; and,
  - (2) Promote the use and conservation of such areas for the education, pleasure, and enrichment of the residents of Forsyth County and the State.
- (B) The boundaries of the H Districts are shown on the Official Zoning Maps.

##### **4-5.2 HO HISTORIC OVERLAY DISTRICT**

- (A) The HO District is established as a district which overlays existing zoning districts in designated historic areas. The purpose of the HO District is to:
  - (1) Safeguard the heritage of the community by preserving those areas that embody important elements of the community's culture, history, architectural history, or archaeology; and,
  - (2) Promote the use and conservation of such areas for the education, pleasure, and enrichment of the residents of Forsyth County and the State.
- (B) The boundaries of the HO Districts are shown on the Official Zoning Maps.

### **4-5.3 ESTABLISHMENT AND AMENDMENT PROCEDURE**

#### **(A) Establishment**

The Elected Bodies may designate one or more geographic areas as an H or HO District. The following shall be the procedure for establishing H or HO Districts:

- (1) Requests for establishment of H or HO Districts may be made in any one of the following methods:
  - (a) by the Elected Bodies of Forsyth County;
  - (b) by property owners within an affected area;
  - (c) by a neighborhood group, association, or coalition;
  - (d) at the initiative of the Commission.
- (2) All requests shall first be presented to the Commission. The Commission shall conduct a preliminary consideration of the request to determine the eligibility of the general area proposed to become an H or HO District.
- (3) If the Commission determines by vote that said general area is ineligible to become an H or HO District, the Commission shall report such determination to the appropriate Elected Body. The Elected Body may accept the determination of the Commission, or it may direct the Commission to proceed in accordance with this Article as if the Commission's determination had been that said general area was eligible to become an H or HO District.
- (4) If the Commission determines by vote that said general area is eligible to become an H or HO District, it shall notify property owners within said general area, through first class mail, that establishment of a designated historic district has been proposed and that the formation of a task force to prepare a detailed study for such establishment will be considered by the Commission at a specified date and time.
- (5) The Commission may appoint a task force to develop design review guidelines and boundaries for said general area. The task force shall be composed primarily of individuals representing various interests in said general area.
- (6) After developing design review guidelines and boundaries, the task force shall report to the Commission.
- (7) The Commission shall review the design review guidelines and boundaries and shall then vote on whether to accept the task force report.

- (8) Once the task force report has been accepted, the Commission shall schedule at least two (2) public informational meetings about the proposed district. Property owners within the proposed boundary area shall be notified of the public informational meetings through first class mail and through notice in a newspaper having general circulation in the area.
- (9) The Commission shall hold the public informational meetings and receive questions and comments.
- (10) The Commission shall consider revisions to the proposed design review guidelines and boundaries, as necessary, and prepare final proposed design review guidelines and boundaries.
- (11) The Commission shall prepare and submit a report to the Director of Planning and the North Carolina Department of Cultural Resources. The report shall include, but not be limited to, the following information:
  - (a) A boundary description of the area;
  - (b) A map at a scale of not less than one inch represents two hundred (200) feet (1" equals 200'), showing the boundaries of the proposed area; and,
  - (c) A description of the significance of the area, including its buildings, structures, features, sites, or surroundings.
- (12) The North Carolina Department of Cultural Resources shall submit an analysis of, and recommendations concerning, the report described in Section 4-5.3(A)(11) above to the Elected Body. Failure of the North Carolina Department of Cultural Resources to submit written analysis and recommendations to the Elected Body within thirty (30) calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the County/City/Town/Village of any responsibility for awaiting such analysis, and the Elected Body may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.
- (13) Once all the previous procedural steps have been met, an application for rezoning the said general area to an H or HO District shall be accepted. The County/City/Town/Village shall proceed in the same manner as would otherwise be required for a change in the Zoning Ordinance and the request shall be processed according to the procedures set forth in Chapter B, Section 6-2 of the Zoning Ordinance. In addition, the design review guidelines for the proposed district shall be made available to the Elected Body for its review and comment.



- (14) Sections 4-5.3(A)(1)-(9) shall not apply to a rezoning petition for a proposed H or HO District for which a task force has been previously appointed to study said general area and has submitted a report to the Commission.

(B) Amendment

The following shall be required to amend, supplement, change, modify, or repeal any district boundaries of the H or HO Districts.

- (1) The Commission shall prepare and submit a report to the Director of Planning and the North Carolina Department of Cultural Resources. The report shall include, but not be limited to, the following information:
  - (a) A boundary description of the area;
  - (b) A map at a scale of not less than one inch represents two hundred (200) feet (1" equals 200'), showing the boundaries of the proposed area; and,
  - (c) A description of the significance of the area, including its buildings, structures, features, sites, or surroundings.
- (2) The North Carolina Department of Cultural Resources shall include an analysis of and recommendations concerning the report described in Section 4-5.3(B)(1) above to the Elected Body. Failure of the North Carolina Department of Cultural Resources to submit written analysis and recommendations to the Elected Body within thirty (30) calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the County/City/Town/Village of any responsibility for awaiting such analysis, and the Elected Body may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.
- (3) Once all the previous procedural steps have been met, an application to amend, supplement, change, modify, or repeal any district boundaries of the H or HO Districts shall be accepted. The County/City/Town/Village shall proceed in the same manner as would otherwise be required for a change in the Zoning Ordinance and the request shall be processed according to the procedures set forth in Chapter B, Section 6-2 of the Zoning Ordinance.

## **4-6 H AND HO DISTRICT USES AND DIMENSIONAL REQUIREMENTS**

### **4-6.1 H DISTRICT REGULATIONS**

#### **(A) Permitted Uses**

In H Districts, the following principal and accessory uses are permitted:

- (1) Any use found by the Commission to have existed on the particular property in or prior to 1856 in the Old Salem Historic District, and in or prior to 1832 in the Bethabara Historic District;
- (2) Any single family residential use which is allowed without a special use permit from the Board of Adjustment;
- (3) A religious institution, college or university, or operation of an historic preservation organization with purposes related to the district; and,
- (4) Uses normally accessory to the principal uses permitted above.

#### **(B) Nonconforming Uses**

Prior to its acting upon an application for a special use permit pursuant to Chapter B, Section 6-2 of the Zoning Ordinance to expand or convert a nonconforming use in the H Districts, the Board of Adjustment shall first receive the recommendation of the Commission with respect to such application.

#### **(C) Dimensional Requirements for New Construction**

- (1) Requirements. All buildings and structures in the H Districts shall comply with the following yard and height provisions:
  - (a) Front Yard. No building or part of a building, other than steps, open porches, overhanging eaves, and cornices, shall extend nearer to a front street line than the average distance of the setbacks of the principal buildings on the same block and on the same side of the street within one hundred (100) feet from the zoning lot in either direction. Provided, however, that in no case shall the front setback be less than eight (8) feet, and no building shall be required to set back more than forty (40) feet from the front street line.
  - (b) Side Yards. There shall be a side yard of not less than seven (7) feet on each side of the principal building. This restriction shall not apply to accessory buildings.

- (c) Rear Yard. There shall be a rear yard with a depth of not less than thirty-five (35) feet. When a building extends through from street to street, the front yard restrictions shall be observed on both streets.
- (d) Height. No building shall exceed a height of thirty-five (35) feet.

- (2) Exceptions to Dimensional Requirements Due to Authentic Restoration and Reconstruction. In the event that the Commission finds that an application for a building permit covers activity constituting an authentic restoration or reconstruction of a building or structure that existed at the same location in or prior to 1856 in the Old Salem Historic District or in or prior to 1832 in the Bethabara Historic District, said building or structure may be restored or reconstructed at the same location where the original building or structure was located.

Any items restored, reconstructed, or maintained over, on, or within public sidewalks, public alley areas, or other such public way shall be the responsibility of the owner. The owner's restoration, reconstruction, or maintenance of any such item shall constitute the owner's agreement to protect and hold the County/City/Town/Village blameless against any and all liability, cost, damage, or expense suffered or sustained by the County/City/Town/Village as a result of or growing out of the restoration, reconstruction, or maintenance. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the street or alley shall be, at its lowest point, seven (7) feet above the travel way. The provisions of this subsection shall prevail over inconsistent or conflicting provisions of this Ordinance.

- (D) Animals

In the H Districts, the keeping of swine, goats, geese, or peafowl is allowed.

#### **4-6.2 HO DISTRICT REGULATIONS**

- (A) Permitted Uses

The HO District is established as a district which overlays existing residential and nonresidential zoning districts in certain areas with historic resources. All uses permitted in these residential and nonresidential districts, whether by right or as a special use, shall be permitted in the HO District according to the procedures established for such uses.

(B) Dimensional Requirements

- (1) Requirements. All buildings and structures in the HO Districts shall comply with the dimensional requirements established in the design review guidelines adopted for each separate HO District. Design review guidelines are addressed in Section 4-7.5.
- (2) Exceptions to Dimensional Requirements Due to Authentic Restoration or Reconstruction. In the event that the Commission finds that an application for a building permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original conformation of the structure of historic and/or architectural significance to the HO District, said building or structure may be restored or reconstructed at the same location where the original building or structure was located.

Any items restored, reconstructed, or maintained over, on, or within public sidewalks, public alley areas, or other such public way shall be the responsibility of the owner. The owner's restoration, reconstruction, or maintenance of any such item shall constitute the owner's agreement to protect and hold the County/City/Town/Village blameless against any and all liability, cost, damage, or expense suffered or sustained by the County/City/Town/Village as a result of or growing out of the restoration, reconstruction, or maintenance. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the street or alley shall be, at its lowest point, twelve (12) feet above the travel way. The provisions of this subsection shall prevail over inconsistent or conflicting provisions of this Ordinance.

(C) Parking Variance

Where the Commission, in considering an application for a certificate of appropriateness, finds that the number of off-street parking spaces required by this Ordinance for a building or structure for which a building permit is required would render the building incongruous with the historic aspects of the designated district, it may recommend to the Board of Adjustment a variance, in part or in whole, of the off-street parking requirements. The Board of Adjustment may authorize a lesser number of off-street parking spaces, provided:

- (1) The Board of Adjustment finds that the lesser number of off-street parking spaces will not create problems due to increased on-street parking; and,

- (2) The Board of Adjustment finds that the lesser number of off-street parking spaces will not constitute a threat to the public safety.

#### **4-7 CERTIFICATE OF APPROPRIATENESS**

##### **4-7.1 REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS FOR LOCAL HISTORIC LANDMARKS (LHL)**

From and after the designation of a Local Historic Landmark (LHL), no designated portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished on such designated historic landmark until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Guidelines either through consultation with Commission staff or review of the Design Review Guidelines.

The City/County/Town/Village shall require a Certificate of Appropriateness 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 Ordinance.

If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in Section 4-7.5.

A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.

For the purposes of the section, the term "designated portion" shall mean any portion of a designated historic landmark that was included in the ordinance designating the landmark, including the main structure or structures, the interior or portions of the interior, any outbuildings or secondary structures, site elements, and landscaping.

Where the exterior of a building or structure is designated as an historic landmark, the term "exterior features" shall mean 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 or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. 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. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

#### **4-7.2 REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS IN HISTORIC AND HISTORIC OVERLAY DISTRICTS**

Within an H or HO District, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Guidelines either through consultation with Commission staff or review of the appropriate Design Review Guidelines.

The City/County/Town/Village shall require a Certificate of Appropriateness 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 Ordinance.

If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in Section 4-7.5.

A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.

For the purposes of the section, the term "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 or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. 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. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

### **4-7.3 CIRCUMSTANCES NOT REQUIRING CERTIFICATES OF APPROPRIATENESS**

No certificate of appropriateness shall be required for:

- (A) The routine maintenance or repair, as defined in the applicable design review guidelines, of any exterior architectural feature in an H or HO District or on a Local Historic Landmark (LHL) which does not involve a change in design, material, or outer appearance;
- (B) The construction, reconstruction, alteration, restoration, moving, or demolition of any such feature which the building inspector or similar official shall certify in writing to the property owner and to the Commission is required by the public safety because of an unsafe or dangerous condition; and,
- (C) The maintenance of any existing above-ground utility structure or, in the event of an emergency, the immediate restoration of any existing above-ground utility structure.

### **4-7.4 PROCEDURES**

The following procedures shall govern the issuance of a Certificate of Appropriateness.

#### **(A) Applications**

Application for a Certificate of Appropriateness shall be submitted to Commission staff on forms provided. The Commission shall, in its Rules of Procedure, require such data and information as is reasonably necessary to evaluate the nature of the application. An application for a Certificate of Appropriateness shall not be considered complete until all required information has been submitted. For properties within H and HO Districts, the names and mailing addresses of the property owners filing the application and the names and addresses of the property owners within one hundred (100) feet on all sides of the property which is the subject of the application must also be filed.

#### **(B) Application to Historic Resources Commission**

Commission staff shall transmit the Certificate of Appropriateness application, together with the supporting information and material, to the Commission for consideration.

(C) Notice and Hearing Within H and HO Districts

Commission staff will make a reasonable attempt to identify and notify by mail the owners of any property located within one hundred (100) feet on all sides of the property which is the subject of the application. Prior to issuance or denial of a Certificate of Appropriateness, the Commission shall give the applicant and other property owners and/or residents likely to be affected by the application an opportunity to be heard.

(D) Viewing Site

As part of its review procedure, the Commission may, solely in performance of its official duties and only at reasonable times, enter upon private lands to view the premises. However, no member, employee, or agent of the Commission may enter any private building or structure without the express permission of the owner or occupant thereof. Additionally, the Commission may seek the advice of the North Carolina Division of Archives and History or such other expert advice as the Commission may deem necessary.

(E) Time for Action

The Commission shall act upon complete applications within one-hundred-twenty (120) calendar days after the filing, unless an extension of time has been mutually agreed upon between the Commission and the applicant. Otherwise, failure to act upon a complete application shall be deemed to constitute approval and a Certificate of Appropriateness shall be issued.

(F) Form of Decision

All formal actions of the Commission shall be set forth in writing. In case of approval, the Commission shall transmit to the property owner a Certificate of Appropriateness clearly describing the work that has been approved, and any conditions of the approval. In case of denial, the Commission shall transmit to the property owner a letter stating the findings on which the decision was based. Additionally, the Commission may, as it deems appropriate, make recommendations concerning any exterior or interior (where applicable), features of the proposed project which may be of guidance and help to the applicant in revising the plans and application. The Commission shall also provide the Zoning Officer with a copy of the formal correspondence to the property owner.



(G) Time Limits

Each Certificate of Appropriateness is issued subject to the following two conditions: (1) If a building permit is required to perform all or any part of the work authorized by a Certificate of Appropriateness, such building permit must be procured within six months from the date the Certificate of Appropriateness was issued; and, (2) If a building permit is not required for any part of the work authorized by a Certificate of Appropriateness, such work must be completed within six months from the date the Certificate of Appropriateness was issued. Upon failure to comply with the applicable condition, the Certificate of Appropriateness shall expire, subject to its being renewed. If a request is made to renew an expired Certificate of Appropriateness within twelve months of its issuance, Commission staff may renew it. All other renewals of an expired Certificate of Appropriateness may only be made by the Commission. A Certificate of Appropriateness shall be renewed unless it is found that a change has occurred that would allow the work authorized by the expired Certificate of Appropriateness to impair the integrity of an historic landmark, property, or district as a whole or would be incongruous with the special character of an historic landmark, property, or district. No request to renew that contemplates substantive changes to the work authorized by the expired Certificate of Appropriateness may be granted. Such a request may be made by submitting an application for a new Certificate of Appropriateness.

(H) Approval of Minor Works

The Commission may delegate to Commission staff the review and approval of minor works for the Local Historic Landmarks (LHL), and for the Historic (H) and Historic Overlay (HO) Districts after approval of Design Review Guidelines for the Local Historic Landmarks (LHL) and each Historic (H) and Historic Overlay (HO) District. Minor works are defined as projects which do not involve substantial alterations, additions, or removals that could impair the integrity of an historic landmark, property, and/or a district as a whole or be incongruous with the special character of an historic landmark, property, or district. Minor works require a Certificate of Appropriateness. A minor works application may be filed at any time and no public notification is required for review of a minor work application. No minor works application may be denied by Commission staff. If Commission staff cannot approve a minor works application, it shall be presented to the Commission for review and formal action.

(I) Reapplication after Denial

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 the application, or if conditions related to the Local Historic Landmark (LHL) or H or HO District or surrounding uses have changed. A reconsidered application shall be treated as a new application.

(J) Demolition Permits

An application for a Certificate of Appropriateness authorizing the relocation or demolition of a designated historic landmark or building or structure within an H or HO District may not be denied; however, the effective date of such Certificate may be delayed for not more than three hundred and sixty-five (365) calendar days from the date of approval. The maximum delay may be reduced by the Commission when it finds that delay would impose an extreme hardship on the owner or would permanently deprive the owner of all beneficial use or return from such property from such delay. During the period of delay, the Commission may negotiate with the owner and other parties in an effort to preserve the building or structure. If the Commission finds that the building or structure has no particular significance or value toward maintaining the character of the designated landmark or district, it shall waive all or part of such period and authorize earlier demolition or removal.

(K) Applicability to County, City, Town, Village and Utility Companies

The County/City/Town/Village and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating on a Local Historic Landmark (LHL) or in an H or HO District any changes in the character of street paving, sidewalks, trees, utility installations, walls, lighting, fences, structures, and buildings on property, easements, or streets owned or franchised by the County/City/Town/Village or public utility companies.

(L) Appeals

An appeal of a decision of the Commission in granting or denying any Certificate of Appropriateness may be taken to the appropriate Board of Adjustment. Appeals may be taken by any aggrieved party within thirty (30) calendar days after the decision of the Commission and shall be in the nature of certiorari (only evidence presented at the Commission's meeting shall be considered at the appeal). Appeal from the decision of the Board of Adjustment shall be to the Forsyth County Superior Court.

(M) Inspection after Issuance of Certificate

The Zoning Officer shall from time to time inspect the construction or alteration approved by a Certificate of Appropriateness and report to the Commission any work not in conformance with the Certificate of Appropriateness.

#### **4-7.5 STANDARDS FOR REVIEW**

A Certificate of Appropriateness shall be issued or denied in accordance with the following standards.

(A) General Criteria

In granting a Certificate of Appropriateness, the Commission shall take into account the historic or architectural significance of the property under consideration and the exterior and interior (where applicable), form and appearance of any proposed additions or modifications to a structure. The Commission shall not consider interior arrangement in H and HO Districts.

(B) General Restriction on Denial

The Commission shall not refuse to issue a Certificate of Appropriateness except for the purpose of preventing the construction, reconstruction, alteration, restoration, or moving of buildings, structures, appurtenant features, or outdoor advertising signs which would be incompatible with the Design Review Guidelines.

(C) Design Review Guidelines Required

The requirement for a Certificate of Appropriateness shall not become effective until after the Commission has prepared and adopted principles and guidelines not inconsistent with Part 3C of Article 19 of Chapter 160A of the NCGS. Such principles and guidelines, hereafter referred to as Design Review Guidelines, shall be prepared for the Local Historic Landmarks (LHL), and for each H and/or HO District and shall address new construction, alterations, additions, moving, and demolition to properties and/or sites. These criteria shall take into account the historic, architectural, and visual elements which are unique to the designated landmarks and districts.

(D) Design Review Guidelines Amendment

Prior to the amendment of design review guidelines for the Local Historic Landmarks (LHL) or any H or HO District, any person may comment upon the proposal. Not less than forty-five (45) days prior to the public hearing at which the Commission proposes to act upon the amendment(s), copies of the proposed amendment(s) shall be made available to the Elected Bodies, and any other interested person upon request. Concurrently, the Commission shall cause notice of the public hearing at which the proposed amendment(s) will be considered for adoption to be published in a newspaper of general circulation in Winston-Salem.

**4-8 COMPLIANCE**

Compliance with the provisions of this section shall be enforced by the appropriate Zoning Officer. Failure to comply with this Section and provisions of a Certificate of Appropriateness shall be unlawful and a violation of the Zoning Ordinance, and all remedies authorized by law for noncompliance with this Ordinance may be exercised to enforce this section.

**Section 2.** This ordinance shall become effective June 1, 2001.

**AN ORDINANCE  
AMENDING CHAPTER B, ARTICLE IV,  
OF THE UNIFIED DEVELOPMENT ORDINANCES  
REGARDING HISTORIC LANDMARKS AND  
HISTORIC/HISTORIC OVERLAY DISTRICTS**

Be it ordained by the Board of Aldermen of the Town of Kernersville, North Carolina, that the Zoning Ordinance of the *Unified Development Ordinances* is hereby amended as follows:

**Section 1.** Article IV, "Historic/Historic Overlay Districts" of Chapter B "Zoning," is hereby rewritten to read as follows:

**Chapter B - Zoning Ordinance**

**Article IV - Historic Landmarks and Historic/Historic Overlay Districts**

**4-1 CREATION**

Pursuant to the authority conferred by the North Carolina General Statutes ["NCGS"] 160A - 400.1 through 400.14, the Forsyth County Board of Commissioners, the Board of Aldermen of the City of Winston-Salem, the Board of Aldermen of the Town of Kernersville, and the Village Council of Clemmons, by concurrent ordinances, do hereby create and establish a joint commission to be known as the Forsyth County Historic Resources Commission [hereinafter the "Commission"]. In establishing the Commission and making appointments to it, the Elected Bodies may seek the advice of State or local historical agencies, societies, or organizations. For purposes of this Article IV, "County/City/Town/Village" shall refer, respectively, to Forsyth County, the City of Winston-Salem, the Town of Kernersville, and the Village of Clemmons, or jointly, as the context requires.

**4-2 PURPOSE**

The historic heritage of Forsyth County is among its most valued and important assets. It is the intent of these regulations:

- (A) To safeguard the heritage of Forsyth County by preserving those areas and individual properties therein which reflect elements of its cultural, social, economic, political, or architectural history;
- (B) To stabilize and improve property values of Local Historic Landmarks and within the H and HO Districts;
- (C) To foster civic beauty; and,

- (D) To promote the use and conservation of Forsyth County's historic resources for the education, pleasure, and enrichment of residents of Forsyth County and of the State and nation as a whole.

#### **4-3 FORSYTH COUNTY HISTORIC RESOURCES COMMISSION**

The Commission is designated as the historic preservation advisory and quasi-judicial body for Forsyth County. The Commission shall consist of twelve (12) members appointed as follows: five (5) by the Forsyth County Board of Commissioners; five (5) by the Winston-Salem Board of Aldermen; one (1) by the Kernersville Board of Aldermen; and, one (1) by the Clemmons Village Council. Commission members shall serve without compensation.

##### **4-3.1 MEMBERSHIP AND ORGANIZATION**

(A) Membership

The Commission shall consist of twelve (12) members appointed as follows: five (5) by the Forsyth County Board of Commissioners; five (5) by the Winston-Salem Board of Aldermen; one (1) by the Kernersville Board of Aldermen; and one (1) by the Clemmons Village Council. In making appointments to the Commission, each Elected Body shall make a reasonable effort to balance the representation of urban and rural interests. All members shall have equal rights, privileges, and duties regardless of whether the matter at issue arises within the jurisdiction of Forsyth County, the City of Winston-Salem, the Town of Kernersville, or the Village of Clemmons.

(B) Qualifications

All members of the Commission shall reside within Forsyth County. All members of the Commission shall have a demonstrated interest or competence in, or knowledge of, historic preservation; and a majority of members shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. The Commission shall consist of six (6) at-large members and at least one (1) each of the following categories:

- Architect licensed in the State of North Carolina
- Architectural historian or historic preservationist
- Archaeologist, landscape architect/designer, planner, surveyor, or arborist
- Historic (H) District property owner
- Historic Overlay (HO) District property owner
- Local Historic Landmark (LHL) property owner

(C) Appointment of Categorical Members

The six (6) categorical members shall be appointed as follows: The Forsyth County Board of Commissioners shall appoint one (1) architect licensed in the State of North Carolina, one (1) archaeologist, landscape architect/designer, planner, surveyor, or arborist, and one (1) Local Historic Landmark (LHL) property owner; and the Winston-Salem Board of Aldermen shall appoint one (1) architectural historian or historic preservationist, one (1) Historic (H) District property owner, and one (1) Historic Overlay (HO) District property owner.

(D) Term

The length of the term of each initial appointment shall be as follows:

Forsyth County, At-Large #1	1 year
Forsyth County, At-Large #2	3 years
Architect Licensed in North Carolina	3 years
Archaeologist, Landscape Architect/Designer, Planner, Surveyor, or Arborist	1 year
Local Historic Landmark (LHL) Property Owner	2 years
Winston-Salem, At-Large #1	1 year
Winston-Salem, At-Large #2	3 years
Architectural Historian or Historic Preservationist	4 years
Historic (H) District Property Owner	2 years
Historic Overlay (HO) District Property Owner	2 years
Kernersville, At-Large	4 years
Clemmons, At-Large	4 years

In making initial appointments to the Commission, each Elected Body shall give special preference to the outgoing members of the Forsyth County Joint Historic Properties Commission and the Winston-Salem Historic Properties Commission in order to provide continuity to the work of the Commission.

The regular term of office for Commission members shall be four (4) years. Unless a jurisdiction's code of ordinances provides otherwise, a member may be reappointed for a second consecutive term, but, thereafter, a member shall be ineligible for reappointment until one (1) year has elapsed from the member's termination of service. Members shall continue in office until a successor has been appointed and qualified.

(E) Compensation

Members shall serve without compensation.

(F) Meetings

The Commission shall establish a meeting time, and shall meet at least monthly, unless there is not sufficient business to warrant a meeting. All meetings of the Commission shall be open to the public and subject to the North Carolina Open Meetings Law.

(G) Rules of Procedure

The Commission shall adopt and publish Rules of Procedure for the conduct of its business.

(H) Annual Report

An annual report shall be prepared and submitted by December of each year to the Elected Bodies. Such report shall include a comprehensive and detailed review of the activities and actions of the Commission, as well as any budget requests and/or recommendations.

(I) Meeting Minutes

The Commission shall keep permanent minutes of its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations, and other actions. The minutes of the Commission shall be a public record.

#### **4-3.2 COMMISSION POWERS**

(A) General Responsibilities of the Historic Resources Commission

The Commission shall act to promote, enhance, and preserve the character and heritage of Forsyth County.

(B) Specific Authority and Powers

The Commission shall have all powers of an historic preservation commission as provided in Part 3C of Article 19 of Chapter 160A of the NCGS including the following duties and responsibilities:

- (1) To undertake inventories of properties of historical, archaeological, architectural, and/or cultural significance;



- (2) To recommend to the Elected Bodies that individual properties be designated as Local Historic Landmarks (LHL) and/or that areas be designated as Historic (H) or Historic Overlay (HO) Districts;
- (3) To recommend that the Elected Bodies revoke historic landmark and/or district designations, in whole or part, for cause;
- (4) To review and act on proposals for exterior alteration, relocation, new construction, or demolition of, or within, designated historic landmarks or districts in accordance with 160A-400.9;
- (5) To review and act on proposals for alteration of interior features of designated historic landmarks if such features are specified in the designation ordinance;
- (6) To delay the relocation, demolition, or destruction of a designated landmark, or a building, structure, or site located within a designated historic district for not more than three hundred sixty-five (365) calendar days from the date of approval.
- (7) To negotiate with property owners who have received a Certificate of Appropriateness to demolish or relocate designated historic landmarks and/or properties within designated historic districts, in an effort to find a means of preserving the properties;
- (8) To delay demolition or destruction of buildings, sites, or structures proposed for historic landmark designation or located in areas proposed for historic district designation, for which the Commission has voted to recommend designation, for up to one hundred eighty (180) days, or until the Elected Bodies take final action on the recommendation, whichever occurs first;
- (9) To report violations of the law to the appropriate Inspections Division of the County/City/Town/Village responsible for enforcement, and/or institute action to prevent, restrain, correct, or abate violations of this Article;
- (10) To organize itself and conduct its business by whatever legal means it deems proper;
- (11) To appoint advisory bodies or committees, as appropriate;

- (12) To receive and spend funds appropriated by the Elected Bodies for operation and performance of the Commission's duties;
- (13) To accept funds granted to the Commission from private or nonprofit organizations or individuals;
- (14) To contract for services or funds from the State of North Carolina and agencies or departments of the United States government;
- (15) To obtain the services of private consultants in order to perform the Commission's official duties;
- (16) To negotiate with property owners for acquisition or protection of historic properties;
- (17) To acquire under Commission ownership, manage, and dispose of properties designated as historic landmarks or within designated historic districts, pursuant to NCGS 160A-400.8(3);
- (18) To enter private lands to examine or survey them, at reasonable times and with the consent of the owner or occupant, in order to perform the Commission's official duties;
- (19) To give advice to property owners concerning treatment of the historic and related visual characteristics of their properties;
- (20) To conduct educational programs on historic resources within Forsyth County;
- (21) To publish information about, or otherwise inform the public and/or owners of designated historic landmarks or property within designated historic districts of any matters pertinent to the Commission's duties, organization, procedures, responsibilities, functions, or requirements;
- (22) To undertake programs of information, research, or analysis relating to any matters under the Commission's purview;
- (23) To recommend to the Elected Bodies and the State of North Carolina buildings, structures, sites, objects, or districts worthy of national, State, or local recognition;
- (24) To cooperate with State and federal governments on matters related to historic preservation;

- (25) To cooperate with local governmental boards, commissions, or agencies or other governmental units; and, to offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest;
- (26) To prepare and recommend adoption of a preservation element as part of a comprehensive plan for the County/City/Town/Village;
- (27) To propose to the Elected Bodies changes to this or any related ordinance, and to propose new ordinances or laws relating to designated historic landmarks or districts, or relating to the total program for the development of the historic resources of Forsyth County; and,
- (28) To exercise such other powers and perform such other duties as are required elsewhere by this Ordinance, State law, or by the Elected Bodies.

#### **4-4 LOCAL HISTORIC LANDMARK (LHL) DESIGNATION**

##### **4-4.1 DESIGNATION APPLICATION**

A property owner, or other interested party, may request that a property be designated as a Local Historic Landmark (LHL) by application to the Commission. Requests for designation shall be made on forms provided by the Commission. An application fee may be required by the Commission for processing of the application.

##### **4-4.2 DESIGNATION CRITERIA**

The Commission shall adopt local criteria by which properties may be considered for designation as historic landmarks.

##### **4-4.3 DESIGNATION PROCEDURES**

No ordinance designating an historic landmark nor any amendment thereto may be adopted, nor may any designated historic landmark be accepted or acquired by the Commission until the following procedural steps have been taken:

- (A) The Commission shall adopt Rules of Procedure.
- (B) The Commission shall prepare and adopt principles and design review guidelines for altering, restoring, moving, or demolishing properties designated as historic landmarks.

- (C) In accordance with NCGS 160A-400.6(2), the Commission shall make or cause to be made an investigation and report on the archaeological, historical, architectural, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. The investigation and report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.
- (D) In accordance with NCGS 160A-400.6(3), the North Carolina Department of Cultural Resources shall be given the opportunity to review and comment upon the substance and effect of the designation of any historic landmark. Any comments shall be provided in writing. If the Department of Cultural Resources does not submit its comments within thirty (30) days following receipt by the Department of the investigation and report, the Commission and the Elected Body are relieved of any responsibility to consider such comments.
- (E) The Commission shall hold a public hearing on the proposed designation ordinance. It shall recommend to the Elected Body, as appropriate, approval of designation or denial of designation of the proposed historic landmark.
- (F) The Elected Body, as appropriate, shall hold a public hearing on the proposed designation ordinance. Following the public hearing, the Elected Body may adopt the designation ordinance as proposed, adopt the designation ordinance with any amendments it deems necessary, or reject the proposal.
- (G) Upon adoption of the designation ordinance, the following provisions shall apply:
  - (1) The owners and occupants of each designated historic landmark shall be given written notification of such designation by Commission staff, insofar as reasonable diligence permits.
  - (2) One (1) copy of the ordinance and each amendment thereto shall be filed by the Commission staff in the office of the Register of Deeds of Forsyth County. Each historic landmark designated in the ordinance shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds office.
  - (3) One (1) copy of the ordinance and each amendment thereto shall be given to the appropriate Inspections Division.
  - (4) One (1) copy of the ordinance and each amendment thereto shall be kept on file in the office of the appropriate County/City/Town/Village Clerk, and made available for public inspection at any reasonable time.

- (5) The fact that a building, structure, site, area or object has been designated as an historic landmark shall be clearly indicated on all tax maps maintained by Forsyth County for such period as the designation remains in effect.
- (6) The Commission shall give notice of the adoption of a designation ordinance and any amendment thereof to the Forsyth County Tax Supervisor. The designation and any recorded restriction upon the property limiting its use for preservation purposes shall be considered by the Tax Supervisor in appraising the property for tax purposes.

#### **4-5 HISTORIC DISTRICTS -- ESTABLISHMENT AND AMENDMENT**

The following Historic Districts are hereby established.

##### **4-5.1 H HISTORIC DISTRICT**

- (A) The H District is established as a separate use district. The purpose of the H District is to:
  - (1) Safeguard the heritage of the community by preserving those areas that embody important elements of the community's culture, history, architectural history, or archaeology; and,
  - (2) Promote the use and conservation of such areas for the education, pleasure, and enrichment of the residents of Forsyth County and the State.
- (B) The boundaries of the H Districts are shown on the Official Zoning Maps.

##### **4-5.2 HO HISTORIC OVERLAY DISTRICT**

- (A) The HO District is established as a district which overlays existing zoning districts in designated historic areas. The purpose of the HO District is to:
  - (1) Safeguard the heritage of the community by preserving those areas that embody important elements of the community's culture, history, architectural history, or archaeology; and,
  - (2) Promote the use and conservation of such areas for the education, pleasure, and enrichment of the residents of Forsyth County and the State.
- (B) The boundaries of the HO Districts are shown on the Official Zoning Maps.

### **4-5.3 ESTABLISHMENT AND AMENDMENT PROCEDURE**

#### **(A) Establishment**

The Elected Bodies may designate one or more geographic areas as an H or HO District. The following shall be the procedure for establishing H or HO Districts:

- (1) Requests for establishment of H or HO Districts may be made in any one of the following methods:
  - (a) by the Elected Bodies of Forsyth County;
  - (b) by property owners within an affected area;
  - (c) by a neighborhood group, association, or coalition;
  - (d) at the initiative of the Commission.
- (2) All requests shall first be presented to the Commission. The Commission shall conduct a preliminary consideration of the request to determine the eligibility of the general area proposed to become an H or HO District.
- (3) If the Commission determines by vote that said general area is ineligible to become an H or HO District, the Commission shall report such determination to the appropriate Elected Body. The Elected Body may accept the determination of the Commission, or it may direct the Commission to proceed in accordance with this Article as if the Commission's determination had been that said general area was eligible to become an H or HO District.
- (4) If the Commission determines by vote that said general area is eligible to become an H or HO District, it shall notify property owners within said general area, through first class mail, that establishment of a designated historic district has been proposed and that the formation of a task force to prepare a detailed study for such establishment will be considered by the Commission at a specified date and time.
- (5) The Commission may appoint a task force to develop design review guidelines and boundaries for said general area. The task force shall be composed primarily of individuals representing various interests in said general area.
- (6) After developing design review guidelines and boundaries, the task force shall report to the Commission.
- (7) The Commission shall review the design review guidelines and boundaries and shall then vote on whether to accept the task force report.

- (8) Once the task force report has been accepted, the Commission shall schedule at least two (2) public informational meetings about the proposed district. Property owners within the proposed boundary area shall be notified of the public informational meetings through first class mail and through notice in a newspaper having general circulation in the area.
- (9) The Commission shall hold the public informational meetings and receive questions and comments.
- (10) The Commission shall consider revisions to the proposed design review guidelines and boundaries, as necessary, and prepare final proposed design review guidelines and boundaries.
- (11) The Commission shall prepare and submit a report to the Director of Planning and the North Carolina Department of Cultural Resources. The report shall include, but not be limited to, the following information:
  - (a) A boundary description of the area;
  - (b) A map at a scale of not less than one inch represents two hundred (200) feet (1" equals 200'), showing the boundaries of the proposed area; and,
  - (c) A description of the significance of the area, including its buildings, structures, features, sites, or surroundings.
- (12) The North Carolina Department of Cultural Resources shall submit an analysis of, and recommendations concerning, the report described in Section 4-5.3(A)(11) above to the Elected Body. Failure of the North Carolina Department of Cultural Resources to submit written analysis and recommendations to the Elected Body within thirty (30) calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the County/City/Town/Village of any responsibility for awaiting such analysis, and the Elected Body may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.
- (13) Once all the previous procedural steps have been met, an application for rezoning the said general area to an H or HO District shall be accepted. The County/City/Town/Village shall proceed in the same manner as would otherwise be required for a change in the Zoning Ordinance and the request shall be processed according to the procedures set forth in Chapter B, Section 6-2 of the Zoning Ordinance. In addition, the design review guidelines for the proposed district shall be made available to the Elected Body for its review and comment.

- (14) Sections 4-5.3(A)(1)-(9) shall not apply to a rezoning petition for a proposed H or HO District for which a task force has been previously appointed to study said general area and has submitted a report to the Commission.

(B) Amendment

The following shall be required to amend, supplement, change, modify, or repeal any district boundaries of the H or HO Districts.

- (1) The Commission shall prepare and submit a report to the Director of Planning and the North Carolina Department of Cultural Resources. The report shall include, but not be limited to, the following information:
  - (a) A boundary description of the area;
  - (b) A map at a scale of not less than one inch represents two hundred (200) feet (1" equals 200'), showing the boundaries of the proposed area; and,
  - (c) A description of the significance of the area, including its buildings, structures, features, sites, or surroundings.
- (2) The North Carolina Department of Cultural Resources shall include an analysis of and recommendations concerning the report described in Section 4-5.3(B)(1) above to the Elected Body. Failure of the North Carolina Department of Cultural Resources to submit written analysis and recommendations to the Elected Body within thirty (30) calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the County/City/Town/Village of any responsibility for awaiting such analysis, and the Elected Body may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.
- (3) Once all the previous procedural steps have been met, an application to amend, supplement, change, modify, or repeal any district boundaries of the H or HO Districts shall be accepted. The County/City/Town/Village shall proceed in the same manner as would otherwise be required for a change in the Zoning Ordinance and the request shall be processed according to the procedures set forth in Chapter B, Section 6-2 of the Zoning Ordinance.



## **4-6 H AND HO DISTRICT USES AND DIMENSIONAL REQUIREMENTS**

### **4-6.1 H DISTRICT REGULATIONS**

#### **(A) Permitted Uses**

In H Districts, the following principal and accessory uses are permitted:

- (1) Any use found by the Commission to have existed on the particular property in or prior to 1856 in the Old Salem Historic District, and in or prior to 1832 in the Bethabara Historic District;
- (2) Any single family residential use which is allowed without a special use permit from the Board of Adjustment;
- (3) A religious institution, college or university, or operation of an historic preservation organization with purposes related to the district; and,
- (4) Uses normally accessory to the principal uses permitted above.

#### **(B) Nonconforming Uses**

Prior to its acting upon an application for a special use permit pursuant to Chapter B, Section 6-2 of the Zoning Ordinance to expand or convert a nonconforming use in the H Districts, the Board of Adjustment shall first receive the recommendation of the Commission with respect to such application.

#### **(C) Dimensional Requirements for New Construction**

- (1) Requirements. All buildings and structures in the H Districts shall comply with the following yard and height provisions:
  - (a) Front Yard. No building or part of a building, other than steps, open porches, overhanging eaves, and cornices, shall extend nearer to a front street line than the average distance of the setbacks of the principal buildings on the same block and on the same side of the street within one hundred (100) feet from the zoning lot in either direction. Provided, however, that in no case shall the front setback be less than eight (8) feet, and no building shall be required to set back more than forty (40) feet from the front street line.
  - (b) Side Yards. There shall be a side yard of not less than seven (7) feet on each side of the principal building. This restriction shall not apply to accessory buildings.

- (c) Rear Yard. There shall be a rear yard with a depth of not less than thirty-five (35) feet. When a building extends through from street to street, the front yard restrictions shall be observed on both streets.
- (d) Height. No building shall exceed a height of thirty-five (35) feet.

- (2) Exceptions to Dimensional Requirements Due to Authentic Restoration and Reconstruction. In the event that the Commission finds that an application for a building permit covers activity constituting an authentic restoration or reconstruction of a building or structure that existed at the same location in or prior to 1856 in the Old Salem Historic District or in or prior to 1832 in the Bethabara Historic District, said building or structure may be restored or reconstructed at the same location where the original building or structure was located.

Any items restored, reconstructed, or maintained over, on, or within public sidewalks, public alley areas, or other such public way shall be the responsibility of the owner. The owner's restoration, reconstruction, or maintenance of any such item shall constitute the owner's agreement to protect and hold the County/City/Town/Village blameless against any and all liability, cost, damage, or expense suffered or sustained by the County/City/Town/Village as a result of or growing out of the restoration, reconstruction, or maintenance. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the street or alley shall be, at its lowest point, seven (7) feet above the travel way. The provisions of this subsection shall prevail over inconsistent or conflicting provisions of this Ordinance.

- (D) Animals

In the H Districts, the keeping of swine, goats, geese, or peafowl is allowed.

#### **4-6.2 HO DISTRICT REGULATIONS**

- (A) Permitted Uses

The HO District is established as a district which overlays existing residential and nonresidential zoning districts in certain areas with historic resources. All uses permitted in these residential and nonresidential districts, whether by right or as a special use, shall be permitted in the HO District according to the procedures established for such uses.

(B) Dimensional Requirements

- (1) Requirements. All buildings and structures in the HO Districts shall comply with the dimensional requirements established in the design review guidelines adopted for each separate HO District. Design review guidelines are addressed in Section 4-7.5.
- (2) Exceptions to Dimensional Requirements Due to Authentic Restoration or Reconstruction. In the event that the Commission finds that an application for a building permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original conformation of the structure of historic and/or architectural significance to the HO District, said building or structure may be restored or reconstructed at the same location where the original building or structure was located.

Any items restored, reconstructed, or maintained over, on, or within public sidewalks, public alley areas, or other such public way shall be the responsibility of the owner. The owner's restoration, reconstruction, or maintenance of any such item shall constitute the owner's agreement to protect and hold the County/City/Town/Village blameless against any and all liability, cost, damage, or expense suffered or sustained by the County/City/Town/Village as a result of or growing out of the restoration, reconstruction, or maintenance. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the street or alley shall be, at its lowest point, twelve (12) feet above the travel way. The provisions of this subsection shall prevail over inconsistent or conflicting provisions of this Ordinance.

(C) Parking Variance

Where the Commission, in considering an application for a certificate of appropriateness, finds that the number of off-street parking spaces required by this Ordinance for a building or structure for which a building permit is required would render the building incongruous with the historic aspects of the designated district, it may recommend to the Board of Adjustment a variance, in part or in whole, of the off-street parking requirements. The Board of Adjustment may authorize a lesser number of off-street parking spaces, provided:

- (1) The Board of Adjustment finds that the lesser number of off-street parking spaces will not create problems due to increased on-street parking; and,

- (2) The Board of Adjustment finds that the lesser number of off-street parking spaces will not constitute a threat to the public safety.

#### **4-7 CERTIFICATE OF APPROPRIATENESS**

##### **4-7.1 REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS FOR LOCAL HISTORIC LANDMARKS (LHL)**

From and after the designation of a Local Historic Landmark (LHL), no designated portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished on such designated historic landmark until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Guidelines either through consultation with Commission staff or review of the Design Review Guidelines.

The City/County/Town/Village shall require a Certificate of Appropriateness 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 Ordinance.

If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in Section 4-7.5.

A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.

For the purposes of the section, the term "designated portion" shall mean any portion of a designated historic landmark that was included in the ordinance designating the landmark, including the main structure or structures, the interior or portions of the interior, any outbuildings or secondary structures, site elements, and landscaping.

Where the exterior of a building or structure is designated as an historic landmark, the term "exterior features" shall mean 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 or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. 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. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

#### **4-7.2 REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS IN HISTORIC AND HISTORIC OVERLAY DISTRICTS**

Within an H or HO District, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Guidelines either through consultation with Commission staff or review of the appropriate Design Review Guidelines.

The City/County/Town/Village shall require a Certificate of Appropriateness 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 Ordinance.

If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in Section 4-7.5.

A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.

For the purposes of the section, the term "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 or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. 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. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

### **4-7.3 CIRCUMSTANCES NOT REQUIRING CERTIFICATES OF APPROPRIATENESS**

No certificate of appropriateness shall be required for:

- (A) The routine maintenance or repair, as defined in the applicable design review guidelines, of any exterior architectural feature in an H or HO District or on a Local Historic Landmark (LHL) which does not involve a change in design, material, or outer appearance;
- (B) The construction, reconstruction, alteration, restoration, moving, or demolition of any such feature which the building inspector or similar official shall certify in writing to the property owner and to the Commission is required by the public safety because of an unsafe or dangerous condition; and,
- (C) The maintenance of any existing above-ground utility structure or, in the event of an emergency, the immediate restoration of any existing above-ground utility structure.

### **4-7.4 PROCEDURES**

The following procedures shall govern the issuance of a Certificate of Appropriateness.

#### **(A) Applications**

Application for a Certificate of Appropriateness shall be submitted to Commission staff on forms provided. The Commission shall, in its Rules of Procedure, require such data and information as is reasonably necessary to evaluate the nature of the application. An application for a Certificate of Appropriateness shall not be considered complete until all required information has been submitted. For properties within H and HO Districts, the names and mailing addresses of the property owners filing the application and the names and addresses of the property owners within one hundred (100) feet on all sides of the property which is the subject of the application must also be filed.

#### **(B) Application to Historic Resources Commission**

Commission staff shall transmit the Certificate of Appropriateness application, together with the supporting information and material, to the Commission for consideration.

(C) Notice and Hearing Within H and HO Districts

Commission staff will make a reasonable attempt to identify and notify by mail the owners of any property located within one hundred (100) feet on all sides of the property which is the subject of the application. Prior to issuance or denial of a Certificate of Appropriateness, the Commission shall give the applicant and other property owners and/or residents likely to be affected by the application an opportunity to be heard.

(D) Viewing Site

As part of its review procedure, the Commission may, solely in performance of its official duties and only at reasonable times, enter upon private lands to view the premises. However, no member, employee, or agent of the Commission may enter any private building or structure without the express permission of the owner or occupant thereof. Additionally, the Commission may seek the advice of the North Carolina Division of Archives and History or such other expert advice as the Commission may deem necessary.

(E) Time for Action

The Commission shall act upon complete applications within one-hundred-twenty (120) calendar days after the filing, unless an extension of time has been mutually agreed upon between the Commission and the applicant. Otherwise, failure to act upon a complete application shall be deemed to constitute approval and a Certificate of Appropriateness shall be issued.

(F) Form of Decision

All formal actions of the Commission shall be set forth in writing. In case of approval, the Commission shall transmit to the property owner a Certificate of Appropriateness clearly describing the work that has been approved, and any conditions of the approval. In case of denial, the Commission shall transmit to the property owner a letter stating the findings on which the decision was based. Additionally, the Commission may, as it deems appropriate, make recommendations concerning any exterior or interior (where applicable), features of the proposed project which may be of guidance and help to the applicant in revising the plans and application. The Commission shall also provide the Zoning Officer with a copy of the formal correspondence to the property owner.

(G) Time Limits

Each Certificate of Appropriateness is issued subject to the following two conditions: (1) If a building permit is required to perform all or any part of the work authorized by a Certificate of Appropriateness, such building permit must be procured within six months from the date the Certificate of Appropriateness was issued; and, (2) If a building permit is not required for any part of the work authorized by a Certificate of Appropriateness, such work must be completed within six months from the date the Certificate of Appropriateness was issued. Upon failure to comply with the applicable condition, the Certificate of Appropriateness shall expire, subject to its being renewed. If a request is made to renew an expired Certificate of Appropriateness within twelve months of its issuance, Commission staff may renew it. All other renewals of an expired Certificate of Appropriateness may only be made by the Commission. A Certificate of Appropriateness shall be renewed unless it is found that a change has occurred that would allow the work authorized by the expired Certificate of Appropriateness to impair the integrity of an historic landmark, property, or district as a whole or would be incongruous with the special character of an historic landmark, property, or district. No request to renew that contemplates substantive changes to the work authorized by the expired Certificate of Appropriateness may be granted. Such a request may be made by submitting an application for a new Certificate of Appropriateness.

(H) Approval of Minor Works

The Commission may delegate to Commission staff the review and approval of minor works for the Local Historic Landmarks (LHL), and for the Historic (H) and Historic Overlay (HO) Districts after approval of Design Review Guidelines for the Local Historic Landmarks (LHL) and each Historic (H) and Historic Overlay (HO) District. Minor works are defined as projects which do not involve substantial alterations, additions, or removals that could impair the integrity of an historic landmark, property, and/or a district as a whole or be incongruous with the special character of an historic landmark, property, or district. Minor works require a Certificate of Appropriateness. A minor works application may be filed at any time and no public notification is required for review of a minor work application. No minor works application may be denied by Commission staff. If Commission staff cannot approve a minor works application, it shall be presented to the Commission for review and formal action.



(I) Reapplication after Denial

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 the application, or if conditions related to the Local Historic Landmark (LHL) or H or HO District or surrounding uses have changed. A reconsidered application shall be treated as a new application.

(J) Demolition Permits

An application for a Certificate of Appropriateness authorizing the relocation or demolition of a designated historic landmark or building or structure within an H or HO District may not be denied; however, the effective date of such Certificate may be delayed for not more than three hundred and sixty-five (365) calendar days from the date of approval. The maximum delay may be reduced by the Commission when it finds that delay would impose an extreme hardship on the owner or would permanently deprive the owner of all beneficial use or return from such property from such delay. During the period of delay, the Commission may negotiate with the owner and other parties in an effort to preserve the building or structure. If the Commission finds that the building or structure has no particular significance or value toward maintaining the character of the designated landmark or district, it shall waive all or part of such period and authorize earlier demolition or removal.

(K) Applicability to County, City, Town, Village and Utility Companies

The County/City/Town/Village and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating on a Local Historic Landmark (LHL) or in an H or HO District any changes in the character of street paving, sidewalks, trees, utility installations, walls, lighting, fences, structures, and buildings on property, easements, or streets owned or franchised by the County/City/Town/Village or public utility companies.

(L) Appeals

An appeal of a decision of the Commission in granting or denying any Certificate of Appropriateness may be taken to the appropriate Board of Adjustment. Appeals may be taken by any aggrieved party within thirty (30) calendar days after the decision of the Commission and shall be in the nature of certiorari (only evidence presented at the Commission's meeting shall be considered at the appeal). Appeal from the decision of the Board of Adjustment shall be to the Forsyth County Superior Court.

(M) Inspection after Issuance of Certificate

The Zoning Officer shall from time to time inspect the construction or alteration approved by a Certificate of Appropriateness and report to the Commission any work not in conformance with the Certificate of Appropriateness.

#### **4-7.5 STANDARDS FOR REVIEW**

A Certificate of Appropriateness shall be issued or denied in accordance with the following standards.

(A) General Criteria

In granting a Certificate of Appropriateness, the Commission shall take into account the historic or architectural significance of the property under consideration and the exterior and interior (where applicable), form and appearance of any proposed additions or modifications to a structure. The Commission shall not consider interior arrangement in H and HO Districts.

(B) General Restriction on Denial

The Commission shall not refuse to issue a Certificate of Appropriateness except for the purpose of preventing the construction, reconstruction, alteration, restoration, or moving of buildings, structures, appurtenant features, or outdoor advertising signs which would be incompatible with the Design Review Guidelines.

(C) Design Review Guidelines Required

The requirement for a Certificate of Appropriateness shall not become effective until after the Commission has prepared and adopted principles and guidelines not inconsistent with Part 3C of Article 19 of Chapter 160A of the NCGS. Such principles and guidelines, hereafter referred to as Design Review Guidelines, shall be prepared for the Local Historic Landmarks (LHL), and for each H and/or HO District and shall address new construction, alterations, additions, moving, and demolition to properties and/or sites. These criteria shall take into account the historic, architectural, and visual elements which are unique to the designated landmarks and districts.

(D) Design Review Guidelines Amendment

Prior to the amendment of design review guidelines for the Local Historic Landmarks (LHL) or any H or HO District, any person may comment upon the proposal. Not less than forty-five (45) days prior to the public hearing at which the Commission proposes to act upon the amendment(s), copies of the proposed amendment(s) shall be made available to the Elected Bodies, and any other interested person upon request. Concurrently, the Commission shall cause notice of the public hearing at which the proposed amendment(s) will be considered for adoption to be published in a newspaper of general circulation in Winston-Salem.

**4-8 COMPLIANCE**

Compliance with the provisions of this section shall be enforced by the appropriate Zoning Officer. Failure to comply with this Section and provisions of a Certificate of Appropriateness shall be unlawful and a violation of the Zoning Ordinance, and all remedies authorized by law for noncompliance with this Ordinance may be exercised to enforce this section.

**Section 2.** This ordinance shall become effective June 1, 2001.

**AN ORDINANCE  
AMENDING CHAPTER B, ARTICLE IV,  
OF THE UNIFIED DEVELOPMENT ORDINANCES  
REGARDING HISTORIC LANDMARKS AND  
HISTORIC/HISTORIC OVERLAY DISTRICTS**

Be it ordained by the Village Council of the Village of Clemmons, North Carolina, that the Zoning Ordinance of the *Unified Development Ordinances* is hereby amended as follows:

**Section 1.** Article IV, "Historic/Historic Overlay Districts" of Chapter B "Zoning," is hereby rewritten to read as follows:

**Chapter B - Zoning Ordinance**

**Article IV - Historic Landmarks and Historic/Historic Overlay Districts**

**4-1 CREATION**

Pursuant to the authority conferred by the North Carolina General Statutes ["NCGS"] 160A - 400.1 through 400.14, the Forsyth County Board of Commissioners, the Board of Aldermen of the City of Winston-Salem, the Board of Aldermen of the Town of Kernersville, and the Village Council of Clemmons, by concurrent ordinances, do hereby create and establish a joint commission to be known as the Forsyth County Historic Resources Commission [hereinafter the "Commission"]. In establishing the Commission and making appointments to it, the Elected Bodies may seek the advice of State or local historical agencies, societies, or organizations. For purposes of this Article IV, "County/City/Town/Village" shall refer, respectively, to Forsyth County, the City of Winston-Salem, the Town of Kernersville, and the Village of Clemmons, or jointly, as the context requires.

**4-2 PURPOSE**

The historic heritage of Forsyth County is among its most valued and important assets. It is the intent of these regulations:

- (A) To safeguard the heritage of Forsyth County by preserving those areas and individual properties therein which reflect elements of its cultural, social, economic, political, or architectural history;
- (B) To stabilize and improve property values of Local Historic Landmarks and within the H and HO Districts;
- (C) To foster civic beauty; and,

- (D) To promote the use and conservation of Forsyth County's historic resources for the education, pleasure, and enrichment of residents of Forsyth County and of the State and nation as a whole.

#### **4-3 FORSYTH COUNTY HISTORIC RESOURCES COMMISSION**

The Commission is designated as the historic preservation advisory and quasi-judicial body for Forsyth County. The Commission shall consist of twelve (12) members appointed as follows: five (5) by the Forsyth County Board of Commissioners; five (5) by the Winston-Salem Board of Aldermen; one (1) by the Kernersville Board of Aldermen; and, one (1) by the Clemmons Village Council. Commission members shall serve without compensation.

##### **4-3.1 MEMBERSHIP AND ORGANIZATION**

(A) Membership

The Commission shall consist of twelve (12) members appointed as follows: five (5) by the Forsyth County Board of Commissioners; five (5) by the Winston-Salem Board of Aldermen; one (1) by the Kernersville Board of Aldermen; and one (1) by the Clemmons Village Council. In making appointments to the Commission, each Elected Body shall make a reasonable effort to balance the representation of urban and rural interests. All members shall have equal rights, privileges, and duties regardless of whether the matter at issue arises within the jurisdiction of Forsyth County, the City of Winston-Salem, the Town of Kernersville, or the Village of Clemmons.

(B) Qualifications

All members of the Commission shall reside within Forsyth County. All members of the Commission shall have a demonstrated interest or competence in, or knowledge of, historic preservation; and a majority of members shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. The Commission shall consist of six (6) at-large members and at least one (1) each of the following categories:

- Architect licensed in the State of North Carolina
- Architectural historian or historic preservationist
- Archaeologist, landscape architect/designer, planner, surveyor, or arborist
- Historic (H) District property owner
- Historic Overlay (HO) District property owner
- Local Historic Landmark (LHL) property owner

(C) Appointment of Categorical Members

The six (6) categorical members shall be appointed as follows: The Forsyth County Board of Commissioners shall appoint one (1) architect licensed in the State of North Carolina, one (1) archaeologist, landscape architect/designer, planner, surveyor, or arborist, and one (1) Local Historic Landmark (LHL) property owner; and the Winston-Salem Board of Aldermen shall appoint one (1) architectural historian or historic preservationist, one (1) Historic (H) District property owner, and one (1) Historic Overlay (HO) District property owner.

(D) Term

The length of the term of each initial appointment shall be as follows:

Forsyth County, At-Large #1	1 year
Forsyth County, At-Large #2	3 years
Architect Licensed in North Carolina	3 years
Archaeologist, Landscape Architect/Designer, Planner, Surveyor, or Arborist	1 year
Local Historic Landmark (LHL) Property Owner	2 years
Winston-Salem, At-Large #1	1 year
Winston-Salem, At-Large #2	3 years
Architectural Historian or Historic Preservationist	4 years
Historic (H) District Property Owner	2 years
Historic Overlay (HO) District Property Owner	2 years
Kernersville, At-Large	4 years
Clemmons, At-Large	4 years

In making initial appointments to the Commission, each Elected Body shall give special preference to the outgoing members of the Forsyth County Joint Historic Properties Commission and the Winston-Salem Historic Properties Commission in order to provide continuity to the work of the Commission.

The regular term of office for Commission members shall be four (4) years. Unless a jurisdiction's code of ordinances provides otherwise, a member may be reappointed for a second consecutive term, but, thereafter, a member shall be ineligible for reappointment until one (1) year has elapsed from the member's termination of service. Members shall continue in office until a successor has been appointed and qualified.

(E) Compensation

Members shall serve without compensation.

(F) Meetings

The Commission shall establish a meeting time, and shall meet at least monthly, unless there is not sufficient business to warrant a meeting. All meetings of the Commission shall be open to the public and subject to the North Carolina Open Meetings Law.

(G) Rules of Procedure

The Commission shall adopt and publish Rules of Procedure for the conduct of its business.

(H) Annual Report

An annual report shall be prepared and submitted by December of each year to the Elected Bodies. Such report shall include a comprehensive and detailed review of the activities and actions of the Commission, as well as any budget requests and/or recommendations.

(I) Meeting Minutes

The Commission shall keep permanent minutes of its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations, and other actions. The minutes of the Commission shall be a public record.

#### **4-3.2 COMMISSION POWERS**

(A) General Responsibilities of the Historic Resources Commission

The Commission shall act to promote, enhance, and preserve the character and heritage of Forsyth County.

(B) Specific Authority and Powers

The Commission shall have all powers of an historic preservation commission as provided in Part 3C of Article 19 of Chapter 160A of the NCGS including the following duties and responsibilities:

- (1) To undertake inventories of properties of historical, archaeological, architectural, and/or cultural significance;

- (2) To recommend to the Elected Bodies that individual properties be designated as Local Historic Landmarks (LHL) and/or that areas be designated as Historic (H) or Historic Overlay (HO) Districts;
- (3) To recommend that the Elected Bodies revoke historic landmark and/or district designations, in whole or part, for cause;
- (4) To review and act on proposals for exterior alteration, relocation, new construction, or demolition of, or within, designated historic landmarks or districts in accordance with 160A-400.9;
- (5) To review and act on proposals for alteration of interior features of designated historic landmarks if such features are specified in the designation ordinance;
- (6) To delay the relocation, demolition, or destruction of a designated landmark, or a building, structure, or site located within a designated historic district for not more than three hundred sixty-five (365) calendar days from the date of approval.
- (7) To negotiate with property owners who have received a Certificate of Appropriateness to demolish or relocate designated historic landmarks and/or properties within designated historic districts, in an effort to find a means of preserving the properties;
- (8) To delay demolition or destruction of buildings, sites, or structures proposed for historic landmark designation or located in areas proposed for historic district designation, for which the Commission has voted to recommend designation, for up to one hundred eighty (180) days, or until the Elected Bodies take final action on the recommendation, whichever occurs first;
- (9) To report violations of the law to the appropriate Inspections Division of the County/City/Town/Village responsible for enforcement, and/or institute action to prevent, restrain, correct, or abate violations of this Article;
- (10) To organize itself and conduct its business by whatever legal means it deems proper;
- (11) To appoint advisory bodies or committees, as appropriate;



- (12) To receive and spend funds appropriated by the Elected Bodies for operation and performance of the Commission's duties;
- (13) To accept funds granted to the Commission from private or nonprofit organizations or individuals;
- (14) To contract for services or funds from the State of North Carolina and agencies or departments of the United States government;
- (15) To obtain the services of private consultants in order to perform the Commission's official duties;
- (16) To negotiate with property owners for acquisition or protection of historic properties;
- (17) To acquire under Commission ownership, manage, and dispose of properties designated as historic landmarks or within designated historic districts, pursuant to NCGS 160A-400.8(3);
- (18) To enter private lands to examine or survey them, at reasonable times and with the consent of the owner or occupant, in order to perform the Commission's official duties;
- (19) To give advice to property owners concerning treatment of the historic and related visual characteristics of their properties;
- (20) To conduct educational programs on historic resources within Forsyth County;
- (21) To publish information about, or otherwise inform the public and/or owners of designated historic landmarks or property within designated historic districts of any matters pertinent to the Commission's duties, organization, procedures, responsibilities, functions, or requirements;
- (22) To undertake programs of information, research, or analysis relating to any matters under the Commission's purview;
- (23) To recommend to the Elected Bodies and the State of North Carolina buildings, structures, sites, objects, or districts worthy of national, State, or local recognition;
- (24) To cooperate with State and federal governments on matters related to historic preservation;

- (25) To cooperate with local governmental boards, commissions, or agencies or other governmental units; and, to offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest;
- (26) To prepare and recommend adoption of a preservation element as part of a comprehensive plan for the County/City/Town/Village;
- (27) To propose to the Elected Bodies changes to this or any related ordinance, and to propose new ordinances or laws relating to designated historic landmarks or districts, or relating to the total program for the development of the historic resources of Forsyth County; and,
- (28) To exercise such other powers and perform such other duties as are required elsewhere by this Ordinance, State law, or by the Elected Bodies.

#### **4-4 LOCAL HISTORIC LANDMARK (LHL) DESIGNATION**

##### **4-4.1 DESIGNATION APPLICATION**

A property owner, or other interested party, may request that a property be designated as a Local Historic Landmark (LHL) by application to the Commission. Requests for designation shall be made on forms provided by the Commission. An application fee may be required by the Commission for processing of the application.

##### **4-4.2 DESIGNATION CRITERIA**

The Commission shall adopt local criteria by which properties may be considered for designation as historic landmarks.

##### **4-4.3 DESIGNATION PROCEDURES**

No ordinance designating an historic landmark nor any amendment thereto may be adopted, nor may any designated historic landmark be accepted or acquired by the Commission until the following procedural steps have been taken:

- (A) The Commission shall adopt Rules of Procedure.
- (B) The Commission shall prepare and adopt principles and design review guidelines for altering, restoring, moving, or demolishing properties designated as historic landmarks.

- (C) In accordance with NCGS 160A-400.6(2), the Commission shall make or cause to be made an investigation and report on the archaeological, historical, architectural, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. The investigation and report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.
- (D) In accordance with NCGS 160A-400.6(3), the North Carolina Department of Cultural Resources shall be given the opportunity to review and comment upon the substance and effect of the designation of any historic landmark. Any comments shall be provided in writing. If the Department of Cultural Resources does not submit its comments within thirty (30) days following receipt by the Department of the investigation and report, the Commission and the Elected Body are relieved of any responsibility to consider such comments.
- (E) The Commission shall hold a public hearing on the proposed designation ordinance. It shall recommend to the Elected Body, as appropriate, approval of designation or denial of designation of the proposed historic landmark.
- (F) The Elected Body, as appropriate, shall hold a public hearing on the proposed designation ordinance. Following the public hearing, the Elected Body may adopt the designation ordinance as proposed, adopt the designation ordinance with any amendments it deems necessary, or reject the proposal.
- (G) Upon adoption of the designation ordinance, the following provisions shall apply:
  - (1) The owners and occupants of each designated historic landmark shall be given written notification of such designation by Commission staff, insofar as reasonable diligence permits.
  - (2) One (1) copy of the ordinance and each amendment thereto shall be filed by the Commission staff in the office of the Register of Deeds of Forsyth County. Each historic landmark designated in the ordinance shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds office.
  - (3) One (1) copy of the ordinance and each amendment thereto shall be given to the appropriate Inspections Division.
  - (4) One (1) copy of the ordinance and each amendment thereto shall be kept on file in the office of the appropriate County/City/Town/Village Clerk, and made available for public inspection at any reasonable time.

- (5) The fact that a building, structure, site, area or object has been designated as an historic landmark shall be clearly indicated on all tax maps maintained by Forsyth County for such period as the designation remains in effect.
- (6) The Commission shall give notice of the adoption of a designation ordinance and any amendment thereof to the Forsyth County Tax Supervisor. The designation and any recorded restriction upon the property limiting its use for preservation purposes shall be considered by the Tax Supervisor in appraising the property for tax purposes.

#### **4-5 HISTORIC DISTRICTS -- ESTABLISHMENT AND AMENDMENT**

The following Historic Districts are hereby established.

##### **4-5.1 H HISTORIC DISTRICT**

- (A) The H District is established as a separate use district. The purpose of the H District is to:
  - (1) Safeguard the heritage of the community by preserving those areas that embody important elements of the community's culture, history, architectural history, or archaeology; and,
  - (2) Promote the use and conservation of such areas for the education, pleasure, and enrichment of the residents of Forsyth County and the State.
- (B) The boundaries of the H Districts are shown on the Official Zoning Maps.

##### **4-5.2 HO HISTORIC OVERLAY DISTRICT**

- (A) The HO District is established as a district which overlays existing zoning districts in designated historic areas. The purpose of the HO District is to:
  - (1) Safeguard the heritage of the community by preserving those areas that embody important elements of the community's culture, history, architectural history, or archaeology; and,
  - (2) Promote the use and conservation of such areas for the education, pleasure, and enrichment of the residents of Forsyth County and the State.
- (B) The boundaries of the HO Districts are shown on the Official Zoning Maps.

### **4-5.3 ESTABLISHMENT AND AMENDMENT PROCEDURE**

#### **(A) Establishment**

The Elected Bodies may designate one or more geographic areas as an H or HO District. The following shall be the procedure for establishing H or HO Districts:

- (1) Requests for establishment of H or HO Districts may be made in any one of the following methods:
  - (a) by the Elected Bodies of Forsyth County;
  - (b) by property owners within an affected area;
  - (c) by a neighborhood group, association, or coalition;
  - (d) at the initiative of the Commission.
- (2) All requests shall first be presented to the Commission. The Commission shall conduct a preliminary consideration of the request to determine the eligibility of the general area proposed to become an H or HO District.
- (3) If the Commission determines by vote that said general area is ineligible to become an H or HO District, the Commission shall report such determination to the appropriate Elected Body. The Elected Body may accept the determination of the Commission, or it may direct the Commission to proceed in accordance with this Article as if the Commission's determination had been that said general area was eligible to become an H or HO District.
- (4) If the Commission determines by vote that said general area is eligible to become an H or HO District, it shall notify property owners within said general area, through first class mail, that establishment of a designated historic district has been proposed and that the formation of a task force to prepare a detailed study for such establishment will be considered by the Commission at a specified date and time.
- (5) The Commission may appoint a task force to develop design review guidelines and boundaries for said general area. The task force shall be composed primarily of individuals representing various interests in said general area.
- (6) After developing design review guidelines and boundaries, the task force shall report to the Commission.
- (7) The Commission shall review the design review guidelines and boundaries and shall then vote on whether to accept the task force report.

- (8) Once the task force report has been accepted, the Commission shall schedule at least two (2) public informational meetings about the proposed district. Property owners within the proposed boundary area shall be notified of the public informational meetings through first class mail and through notice in a newspaper having general circulation in the area.
- (9) The Commission shall hold the public informational meetings and receive questions and comments.
- (10) The Commission shall consider revisions to the proposed design review guidelines and boundaries, as necessary, and prepare final proposed design review guidelines and boundaries.
- (11) The Commission shall prepare and submit a report to the Director of Planning and the North Carolina Department of Cultural Resources. The report shall include, but not be limited to, the following information:
  - (a) A boundary description of the area;
  - (b) A map at a scale of not less than one inch represents two hundred (200) feet (1" equals 200'), showing the boundaries of the proposed area; and,
  - (c) A description of the significance of the area, including its buildings, structures, features, sites, or surroundings.
- (12) The North Carolina Department of Cultural Resources shall submit an analysis of, and recommendations concerning, the report described in Section 4-5.3(A)(11) above to the Elected Body. Failure of the North Carolina Department of Cultural Resources to submit written analysis and recommendations to the Elected Body within thirty (30) calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the County/City/Town/Village of any responsibility for awaiting such analysis, and the Elected Body may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.
- (13) Once all the previous procedural steps have been met, an application for rezoning the said general area to an H or HO District shall be accepted. The County/City/Town/Village shall proceed in the same manner as would otherwise be required for a change in the Zoning Ordinance and the request shall be processed according to the procedures set forth in Chapter B, Section 6-2 of the Zoning Ordinance. In addition, the design review guidelines for the proposed district shall be made available to the Elected Body for its review and comment.

- (14) Sections 4-5.3(A)(1)-(9) shall not apply to a rezoning petition for a proposed H or HO District for which a task force has been previously appointed to study said general area and has submitted a report to the Commission.

(B) Amendment

The following shall be required to amend, supplement, change, modify, or repeal any district boundaries of the H or HO Districts.

- (1) The Commission shall prepare and submit a report to the Director of Planning and the North Carolina Department of Cultural Resources. The report shall include, but not be limited to, the following information:
  - (a) A boundary description of the area;
  - (b) A map at a scale of not less than one inch represents two hundred (200) feet (1" equals 200'), showing the boundaries of the proposed area; and,
  - (c) A description of the significance of the area, including its buildings, structures, features, sites, or surroundings.
- (2) The North Carolina Department of Cultural Resources shall include an analysis of and recommendations concerning the report described in Section 4-5.3(B)(1) above to the Elected Body. Failure of the North Carolina Department of Cultural Resources to submit written analysis and recommendations to the Elected Body within thirty (30) calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the County/City/Town/Village of any responsibility for awaiting such analysis, and the Elected Body may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.
- (3) Once all the previous procedural steps have been met, an application to amend, supplement, change, modify, or repeal any district boundaries of the H or HO Districts shall be accepted. The County/City/Town/Village shall proceed in the same manner as would otherwise be required for a change in the Zoning Ordinance and the request shall be processed according to the procedures set forth in Chapter B, Section 6-2 of the Zoning Ordinance.

## **4-6 H AND HO DISTRICT USES AND DIMENSIONAL REQUIREMENTS**

### **4-6.1 H DISTRICT REGULATIONS**

#### **(A) Permitted Uses**

In H Districts, the following principal and accessory uses are permitted:

- (1) Any use found by the Commission to have existed on the particular property in or prior to 1856 in the Old Salem Historic District, and in or prior to 1832 in the Bethabara Historic District;
- (2) Any single family residential use which is allowed without a special use permit from the Board of Adjustment;
- (3) A religious institution, college or university, or operation of an historic preservation organization with purposes related to the district; and,
- (4) Uses normally accessory to the principal uses permitted above.

#### **(B) Nonconforming Uses**

Prior to its acting upon an application for a special use permit pursuant to Chapter B, Section 6-2 of the Zoning Ordinance to expand or convert a nonconforming use in the H Districts, the Board of Adjustment shall first receive the recommendation of the Commission with respect to such application.

#### **(C) Dimensional Requirements for New Construction**

- (1) Requirements. All buildings and structures in the H Districts shall comply with the following yard and height provisions:
  - (a) Front Yard. No building or part of a building, other than steps, open porches, overhanging eaves, and cornices, shall extend nearer to a front street line than the average distance of the setbacks of the principal buildings on the same block and on the same side of the street within one hundred (100) feet from the zoning lot in either direction. Provided, however, that in no case shall the front setback be less than eight (8) feet, and no building shall be required to set back more than forty (40) feet from the front street line.
  - (b) Side Yards. There shall be a side yard of not less than seven (7) feet on each side of the principal building. This restriction shall not apply to accessory buildings.



- (c) Rear Yard. There shall be a rear yard with a depth of not less than thirty-five (35) feet. When a building extends through from street to street, the front yard restrictions shall be observed on both streets.
- (d) Height. No building shall exceed a height of thirty-five (35) feet.

- (2) Exceptions to Dimensional Requirements Due to Authentic Restoration and Reconstruction. In the event that the Commission finds that an application for a building permit covers activity constituting an authentic restoration or reconstruction of a building or structure that existed at the same location in or prior to 1856 in the Old Salem Historic District or in or prior to 1832 in the Bethabara Historic District, said building or structure may be restored or reconstructed at the same location where the original building or structure was located.

Any items restored, reconstructed, or maintained over, on, or within public sidewalks, public alley areas, or other such public way shall be the responsibility of the owner. The owner's restoration, reconstruction, or maintenance of any such item shall constitute the owner's agreement to protect and hold the County/City/Town/Village blameless against any and all liability, cost, damage, or expense suffered or sustained by the County/City/Town/Village as a result of or growing out of the restoration, reconstruction, or maintenance. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the street or alley shall be, at its lowest point, seven (7) feet above the travel way. The provisions of this subsection shall prevail over inconsistent or conflicting provisions of this Ordinance.

- (D) Animals

In the H Districts, the keeping of swine, goats, geese, or peafowl is allowed.

#### **4-6.2 HO DISTRICT REGULATIONS**

- (A) Permitted Uses

The HO District is established as a district which overlays existing residential and nonresidential zoning districts in certain areas with historic resources. All uses permitted in these residential and nonresidential districts, whether by right or as a special use, shall be permitted in the HO District according to the procedures established for such uses.

(B) Dimensional Requirements

- (1) Requirements. All buildings and structures in the HO Districts shall comply with the dimensional requirements established in the design review guidelines adopted for each separate HO District. Design review guidelines are addressed in Section 4-7.5.
- (2) Exceptions to Dimensional Requirements Due to Authentic Restoration or Reconstruction. In the event that the Commission finds that an application for a building permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original conformation of the structure of historic and/or architectural significance to the HO District, said building or structure may be restored or reconstructed at the same location where the original building or structure was located.

Any items restored, reconstructed, or maintained over, on, or within public sidewalks, public alley areas, or other such public way shall be the responsibility of the owner. The owner's restoration, reconstruction, or maintenance of any such item shall constitute the owner's agreement to protect and hold the County/City/Town/Village blameless against any and all liability, cost, damage, or expense suffered or sustained by the County/City/Town/Village as a result of or growing out of the restoration, reconstruction, or maintenance. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the street or alley shall be, at its lowest point, twelve (12) feet above the travel way. The provisions of this subsection shall prevail over inconsistent or conflicting provisions of this Ordinance.

(C) Parking Variance

Where the Commission, in considering an application for a certificate of appropriateness, finds that the number of off-street parking spaces required by this Ordinance for a building or structure for which a building permit is required would render the building incongruous with the historic aspects of the designated district, it may recommend to the Board of Adjustment a variance, in part or in whole, of the off-street parking requirements. The Board of Adjustment may authorize a lesser number of off-street parking spaces, provided:

- (1) The Board of Adjustment finds that the lesser number of off-street parking spaces will not create problems due to increased on-street parking; and,

- (2) The Board of Adjustment finds that the lesser number of off-street parking spaces will not constitute a threat to the public safety.

#### **4-7 CERTIFICATE OF APPROPRIATENESS**

##### **4-7.1 REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS FOR LOCAL HISTORIC LANDMARKS (LHL)**

From and after the designation of a Local Historic Landmark (LHL), no designated portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished on such designated historic landmark until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Guidelines either through consultation with Commission staff or review of the Design Review Guidelines.

The City/County/Town/Village shall require a Certificate of Appropriateness 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 Ordinance.

If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in Section 4-7.5.

A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.

For the purposes of the section, the term "designated portion" shall mean any portion of a designated historic landmark that was included in the ordinance designating the landmark, including the main structure or structures, the interior or portions of the interior, any outbuildings or secondary structures, site elements, and landscaping.

Where the exterior of a building or structure is designated as an historic landmark, the term "exterior features" shall mean 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 or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. 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. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

#### **4-7.2 REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS IN HISTORIC AND HISTORIC OVERLAY DISTRICTS**

Within an H or HO District, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Guidelines either through consultation with Commission staff or review of the appropriate Design Review Guidelines.

The City/County/Town/Village shall require a Certificate of Appropriateness 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 Ordinance.

If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in Section 4-7.5.

A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.

For the purposes of the section, the term "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 or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. 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. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

### **4-7.3 CIRCUMSTANCES NOT REQUIRING CERTIFICATES OF APPROPRIATENESS**

No certificate of appropriateness shall be required for:

- (A) The routine maintenance or repair, as defined in the applicable design review guidelines, of any exterior architectural feature in an H or HO District or on a Local Historic Landmark (LHL) which does not involve a change in design, material, or outer appearance;
- (B) The construction, reconstruction, alteration, restoration, moving, or demolition of any such feature which the building inspector or similar official shall certify in writing to the property owner and to the Commission is required by the public safety because of an unsafe or dangerous condition; and,
- (C) The maintenance of any existing above-ground utility structure or, in the event of an emergency, the immediate restoration of any existing above-ground utility structure.

### **4-7.4 PROCEDURES**

The following procedures shall govern the issuance of a Certificate of Appropriateness.

#### **(A) Applications**

Application for a Certificate of Appropriateness shall be submitted to Commission staff on forms provided. The Commission shall, in its Rules of Procedure, require such data and information as is reasonably necessary to evaluate the nature of the application. An application for a Certificate of Appropriateness shall not be considered complete until all required information has been submitted. For properties within H and HO Districts, the names and mailing addresses of the property owners filing the application and the names and addresses of the property owners within one hundred (100) feet on all sides of the property which is the subject of the application must also be filed.

#### **(B) Application to Historic Resources Commission**

Commission staff shall transmit the Certificate of Appropriateness application, together with the supporting information and material, to the Commission for consideration.

(C) Notice and Hearing Within H and HO Districts

Commission staff will make a reasonable attempt to identify and notify by mail the owners of any property located within one hundred (100) feet on all sides of the property which is the subject of the application. Prior to issuance or denial of a Certificate of Appropriateness, the Commission shall give the applicant and other property owners and/or residents likely to be affected by the application an opportunity to be heard.

(D) Viewing Site

As part of its review procedure, the Commission may, solely in performance of its official duties and only at reasonable times, enter upon private lands to view the premises. However, no member, employee, or agent of the Commission may enter any private building or structure without the express permission of the owner or occupant thereof. Additionally, the Commission may seek the advice of the North Carolina Division of Archives and History or such other expert advice as the Commission may deem necessary.

(E) Time for Action

The Commission shall act upon complete applications within one-hundred-twenty (120) calendar days after the filing, unless an extension of time has been mutually agreed upon between the Commission and the applicant. Otherwise, failure to act upon a complete application shall be deemed to constitute approval and a Certificate of Appropriateness shall be issued.

(F) Form of Decision

All formal actions of the Commission shall be set forth in writing. In case of approval, the Commission shall transmit to the property owner a Certificate of Appropriateness clearly describing the work that has been approved, and any conditions of the approval. In case of denial, the Commission shall transmit to the property owner a letter stating the findings on which the decision was based. Additionally, the Commission may, as it deems appropriate, make recommendations concerning any exterior or interior (where applicable), features of the proposed project which may be of guidance and help to the applicant in revising the plans and application. The Commission shall also provide the Zoning Officer with a copy of the formal correspondence to the property owner.

(G) Time Limits

Each Certificate of Appropriateness is issued subject to the following two conditions: (1) If a building permit is required to perform all or any part of the work authorized by a Certificate of Appropriateness, such building permit must be procured within six months from the date the Certificate of Appropriateness was issued; and, (2) If a building permit is not required for any part of the work authorized by a Certificate of Appropriateness, such work must be completed within six months from the date the Certificate of Appropriateness was issued. Upon failure to comply with the applicable condition, the Certificate of Appropriateness shall expire, subject to its being renewed. If a request is made to renew an expired Certificate of Appropriateness within twelve months of its issuance, Commission staff may renew it. All other renewals of an expired Certificate of Appropriateness may only be made by the Commission. A Certificate of Appropriateness shall be renewed unless it is found that a change has occurred that would allow the work authorized by the expired Certificate of Appropriateness to impair the integrity of an historic landmark, property, or district as a whole or would be incongruous with the special character of an historic landmark, property, or district. No request to renew that contemplates substantive changes to the work authorized by the expired Certificate of Appropriateness may be granted. Such a request may be made by submitting an application for a new Certificate of Appropriateness.

(H) Approval of Minor Works

The Commission may delegate to Commission staff the review and approval of minor works for the Local Historic Landmarks (LHL), and for the Historic (H) and Historic Overlay (HO) Districts after approval of Design Review Guidelines for the Local Historic Landmarks (LHL) and each Historic (H) and Historic Overlay (HO) District. Minor works are defined as projects which do not involve substantial alterations, additions, or removals that could impair the integrity of an historic landmark, property, and/or a district as a whole or be incongruous with the special character of an historic landmark, property, or district. Minor works require a Certificate of Appropriateness. A minor works application may be filed at any time and no public notification is required for review of a minor work application. No minor works application may be denied by Commission staff. If Commission staff cannot approve a minor works application, it shall be presented to the Commission for review and formal action.

(I) Reapplication after Denial

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 the application, or if conditions related to the Local Historic Landmark (LHL) or H or HO District or surrounding uses have changed. A reconsidered application shall be treated as a new application.

(J) Demolition Permits

An application for a Certificate of Appropriateness authorizing the relocation or demolition of a designated historic landmark or building or structure within an H or HO District may not be denied; however, the effective date of such Certificate may be delayed for not more than three hundred and sixty-five (365) calendar days from the date of approval. The maximum delay may be reduced by the Commission when it finds that delay would impose an extreme hardship on the owner or would permanently deprive the owner of all beneficial use or return from such property from such delay. During the period of delay, the Commission may negotiate with the owner and other parties in an effort to preserve the building or structure. If the Commission finds that the building or structure has no particular significance or value toward maintaining the character of the designated landmark or district, it shall waive all or part of such period and authorize earlier demolition or removal.

(K) Applicability to County, City, Town, Village and Utility Companies

The County/City/Town/Village and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating on a Local Historic Landmark (LHL) or in an H or HO District any changes in the character of street paving, sidewalks, trees, utility installations, walls, lighting, fences, structures, and buildings on property, easements, or streets owned or franchised by the County/City/Town/Village or public utility companies.

(L) Appeals

An appeal of a decision of the Commission in granting or denying any Certificate of Appropriateness may be taken to the appropriate Board of Adjustment. Appeals may be taken by any aggrieved party within thirty (30) calendar days after the decision of the Commission and shall be in the nature of certiorari (only evidence presented at the Commission's meeting shall be considered at the appeal). Appeal from the decision of the Board of Adjustment shall be to the Forsyth County Superior Court.



(M) Inspection after Issuance of Certificate

The Zoning Officer shall from time to time inspect the construction or alteration approved by a Certificate of Appropriateness and report to the Commission any work not in conformance with the Certificate of Appropriateness.

#### **4-7.5 STANDARDS FOR REVIEW**

A Certificate of Appropriateness shall be issued or denied in accordance with the following standards.

(A) General Criteria

In granting a Certificate of Appropriateness, the Commission shall take into account the historic or architectural significance of the property under consideration and the exterior and interior (where applicable), form and appearance of any proposed additions or modifications to a structure. The Commission shall not consider interior arrangement in H and HO Districts.

(B) General Restriction on Denial

The Commission shall not refuse to issue a Certificate of Appropriateness except for the purpose of preventing the construction, reconstruction, alteration, restoration, or moving of buildings, structures, appurtenant features, or outdoor advertising signs which would be incompatible with the Design Review Guidelines.

(C) Design Review Guidelines Required

The requirement for a Certificate of Appropriateness shall not become effective until after the Commission has prepared and adopted principles and guidelines not inconsistent with Part 3C of Article 19 of Chapter 160A of the NCGS. Such principles and guidelines, hereafter referred to as Design Review Guidelines, shall be prepared for the Local Historic Landmarks (LHL), and for each H and/or HO District and shall address new construction, alterations, additions, moving, and demolition to properties and/or sites. These criteria shall take into account the historic, architectural, and visual elements which are unique to the designated landmarks and districts.

(D) Design Review Guidelines Amendment

Prior to the amendment of design review guidelines for the Local Historic Landmarks (LHL) or any H or HO District, any person may comment upon the proposal. Not less than forty-five (45) days prior to the public hearing at which the Commission proposes to act upon the amendment(s), copies of the proposed amendment(s) shall be made available to the Elected Bodies, and any other interested person upon request. Concurrently, the Commission shall cause notice of the public hearing at which the proposed amendment(s) will be considered for adoption to be published in a newspaper of general circulation in Winston-Salem.

**4-8 COMPLIANCE**

Compliance with the provisions of this section shall be enforced by the appropriate Zoning Officer. Failure to comply with this Section and provisions of a Certificate of Appropriateness shall be unlawful and a violation of the Zoning Ordinance, and all remedies authorized by law for noncompliance with this Ordinance may be exercised to enforce this section.

**Section 2.** This ordinance shall become effective June 1, 2001.

**AN ORDINANCE  
AMENDING CHAPTER B, ARTICLE IV,  
OF THE UNIFIED DEVELOPMENT ORDINANCES  
REGARDING HISTORIC LANDMARKS AND  
HISTORIC/HISTORIC OVERLAY DISTRICTS**

Be it ordained by the Town Council of the Town of Lewisville, North Carolina, that the Zoning Ordinance of the *Unified Development Ordinances* is hereby amended as follows:

**Section 1.** Article IV, "Historic/Historic Overlay Districts" of Chapter B "Zoning," is hereby rewritten to read as follows:

**Chapter B - Zoning Ordinance**

**Article IV - Historic Landmarks and Historic/Historic Overlay Districts**

**4-1 CREATION**

Pursuant to the authority conferred by the North Carolina General Statutes ["NCGS"] 160A - 400.1 through 400.14, the Forsyth County Board of Commissioners, the Board of Aldermen of the City of Winston-Salem, the Board of Aldermen of the Town of Kernersville, and the Village Council of Clemmons, by concurrent ordinances, do hereby create and establish a joint commission to be known as the Forsyth County Historic Resources Commission [hereinafter the "Commission"]. In establishing the Commission and making appointments to it, the Elected Bodies may seek the advice of State or local historical agencies, societies, or organizations. For purposes of this Article IV, "County/City/Town/Village" shall refer, respectively, to Forsyth County, the City of Winston-Salem, the Town of Kernersville, and the Village of Clemmons, or jointly, as the context requires.

**4-2 PURPOSE**

The historic heritage of Forsyth County is among its most valued and important assets. It is the intent of these regulations:

- (A) To safeguard the heritage of Forsyth County by preserving those areas and individual properties therein which reflect elements of its cultural, social, economic, political, or architectural history;
- (B) To stabilize and improve property values of Local Historic Landmarks and within the H and HO Districts;
- (C) To foster civic beauty; and,

- (D) To promote the use and conservation of Forsyth County's historic resources for the education, pleasure, and enrichment of residents of Forsyth County and of the State and nation as a whole.

#### **4-3 FORSYTH COUNTY HISTORIC RESOURCES COMMISSION**

The Commission is designated as the historic preservation advisory and quasi-judicial body for Forsyth County. The Commission shall consist of twelve (12) members appointed as follows: five (5) by the Forsyth County Board of Commissioners; five (5) by the Winston-Salem Board of Aldermen; one (1) by the Kernersville Board of Aldermen; and, one (1) by the Clemmons Village Council. Commission members shall serve without compensation.

##### **4-3.1 MEMBERSHIP AND ORGANIZATION**

(A) Membership

The Commission shall consist of twelve (12) members appointed as follows: five (5) by the Forsyth County Board of Commissioners; five (5) by the Winston-Salem Board of Aldermen; one (1) by the Kernersville Board of Aldermen; and one (1) by the Clemmons Village Council. In making appointments to the Commission, each Elected Body shall make a reasonable effort to balance the representation of urban and rural interests. All members shall have equal rights, privileges, and duties regardless of whether the matter at issue arises within the jurisdiction of Forsyth County, the City of Winston-Salem, the Town of Kernersville, or the Village of Clemmons.

(B) Qualifications

All members of the Commission shall reside within Forsyth County. All members of the Commission shall have a demonstrated interest or competence in, or knowledge of, historic preservation; and a majority of members shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. The Commission shall consist of six (6) at-large members and at least one (1) each of the following categories:

- Architect licensed in the State of North Carolina
- Architectural historian or historic preservationist
- Archaeologist, landscape architect/designer, planner, surveyor, or arborist
- Historic (H) District property owner
- Historic Overlay (HO) District property owner
- Local Historic Landmark (LHL) property owner

(C) Appointment of Categorical Members

The six (6) categorical members shall be appointed as follows: The Forsyth County Board of Commissioners shall appoint one (1) architect licensed in the State of North Carolina, one (1) archaeologist, landscape architect/designer, planner, surveyor, or arborist, and one (1) Local Historic Landmark (LHL) property owner; and the Winston-Salem Board of Aldermen shall appoint one (1) architectural historian or historic preservationist, one (1) Historic (H) District property owner, and one (1) Historic Overlay (HO) District property owner.

(D) Term

The length of the term of each initial appointment shall be as follows:

Forsyth County, At-Large #1	1 year
Forsyth County, At-Large #2	3 years
Architect Licensed in North Carolina	3 years
Archaeologist, Landscape Architect/Designer, Planner, Surveyor, or Arborist	1 year
Local Historic Landmark (LHL) Property Owner	2 years
Winston-Salem, At-Large #1	1 year
Winston-Salem, At-Large #2	3 years
Architectural Historian or Historic Preservationist	4 years
Historic (H) District Property Owner	2 years
Historic Overlay (HO) District Property Owner	2 years
Kernersville, At-Large	4 years
Clemmons, At-Large	4 years

In making initial appointments to the Commission, each Elected Body shall give special preference to the outgoing members of the Forsyth County Joint Historic Properties Commission and the Winston-Salem Historic Properties Commission in order to provide continuity to the work of the Commission.

The regular term of office for Commission members shall be four (4) years. Unless a jurisdiction's code of ordinances provides otherwise, a member may be reappointed for a second consecutive term, but, thereafter, a member shall be ineligible for reappointment until one (1) year has elapsed from the member's termination of service. Members shall continue in office until a successor has been appointed and qualified.

(E) Compensation

Members shall serve without compensation.

(F) Meetings

The Commission shall establish a meeting time, and shall meet at least monthly, unless there is not sufficient business to warrant a meeting. All meetings of the Commission shall be open to the public and subject to the North Carolina Open Meetings Law.

(G) Rules of Procedure

The Commission shall adopt and publish Rules of Procedure for the conduct of its business.

(H) Annual Report

An annual report shall be prepared and submitted by December of each year to the Elected Bodies. Such report shall include a comprehensive and detailed review of the activities and actions of the Commission, as well as any budget requests and/or recommendations.

(I) Meeting Minutes

The Commission shall keep permanent minutes of its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations, and other actions. The minutes of the Commission shall be a public record.

#### **4-3.2 COMMISSION POWERS**

(A) General Responsibilities of the Historic Resources Commission

The Commission shall act to promote, enhance, and preserve the character and heritage of Forsyth County.

(B) Specific Authority and Powers

The Commission shall have all powers of an historic preservation commission as provided in Part 3C of Article 19 of Chapter 160A of the NCGS including the following duties and responsibilities:

- (1) To undertake inventories of properties of historical, archaeological, architectural, and/or cultural significance;

- (2) To recommend to the Elected Bodies that individual properties be designated as Local Historic Landmarks (LHL) and/or that areas be designated as Historic (H) or Historic Overlay (HO) Districts;
- (3) To recommend that the Elected Bodies revoke historic landmark and/or district designations, in whole or part, for cause;
- (4) To review and act on proposals for exterior alteration, relocation, new construction, or demolition of, or within, designated historic landmarks or districts in accordance with 160A-400.9;
- (5) To review and act on proposals for alteration of interior features of designated historic landmarks if such features are specified in the designation ordinance;
- (6) To delay the relocation, demolition, or destruction of a designated landmark, or a building, structure, or site located within a designated historic district for not more than three hundred sixty-five (365) calendar days from the date of approval.
- (7) To negotiate with property owners who have received a Certificate of Appropriateness to demolish or relocate designated historic landmarks and/or properties within designated historic districts, in an effort to find a means of preserving the properties;
- (8) To delay demolition or destruction of buildings, sites, or structures proposed for historic landmark designation or located in areas proposed for historic district designation, for which the Commission has voted to recommend designation, for up to one hundred eighty (180) days, or until the Elected Bodies take final action on the recommendation, whichever occurs first;
- (9) To report violations of the law to the appropriate Inspections Division of the County/City/Town/Village responsible for enforcement, and/or institute action to prevent, restrain, correct, or abate violations of this Article;
- (10) To organize itself and conduct its business by whatever legal means it deems proper;
- (11) To appoint advisory bodies or committees, as appropriate;

- (12) To receive and spend funds appropriated by the Elected Bodies for operation and performance of the Commission's duties;
- (13) To accept funds granted to the Commission from private or nonprofit organizations or individuals;
- (14) To contract for services or funds from the State of North Carolina and agencies or departments of the United States government;
- (15) To obtain the services of private consultants in order to perform the Commission's official duties;
- (16) To negotiate with property owners for acquisition or protection of historic properties;
- (17) To acquire under Commission ownership, manage, and dispose of properties designated as historic landmarks or within designated historic districts, pursuant to NCGS 160A-400.8(3);
- (18) To enter private lands to examine or survey them, at reasonable times and with the consent of the owner or occupant, in order to perform the Commission's official duties;
- (19) To give advice to property owners concerning treatment of the historic and related visual characteristics of their properties;
- (20) To conduct educational programs on historic resources within Forsyth County;
- (21) To publish information about, or otherwise inform the public and/or owners of designated historic landmarks or property within designated historic districts of any matters pertinent to the Commission's duties, organization, procedures, responsibilities, functions, or requirements;
- (22) To undertake programs of information, research, or analysis relating to any matters under the Commission's purview;
- (23) To recommend to the Elected Bodies and the State of North Carolina buildings, structures, sites, objects, or districts worthy of national, State, or local recognition;
- (24) To cooperate with State and federal governments on matters related to historic preservation;



- (25) To cooperate with local governmental boards, commissions, or agencies or other governmental units; and, to offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest;
- (26) To prepare and recommend adoption of a preservation element as part of a comprehensive plan for the County/City/Town/Village;
- (27) To propose to the Elected Bodies changes to this or any related ordinance, and to propose new ordinances or laws relating to designated historic landmarks or districts, or relating to the total program for the development of the historic resources of Forsyth County; and,
- (28) To exercise such other powers and perform such other duties as are required elsewhere by this Ordinance, State law, or by the Elected Bodies.

#### **4-4 LOCAL HISTORIC LANDMARK (LHL) DESIGNATION**

##### **4-4.1 DESIGNATION APPLICATION**

A property owner, or other interested party, may request that a property be designated as a Local Historic Landmark (LHL) by application to the Commission. Requests for designation shall be made on forms provided by the Commission. An application fee may be required by the Commission for processing of the application.

##### **4-4.2 DESIGNATION CRITERIA**

The Commission shall adopt local criteria by which properties may be considered for designation as historic landmarks.

##### **4-4.3 DESIGNATION PROCEDURES**

No ordinance designating an historic landmark nor any amendment thereto may be adopted, nor may any designated historic landmark be accepted or acquired by the Commission until the following procedural steps have been taken:

- (A) The Commission shall adopt Rules of Procedure.
- (B) The Commission shall prepare and adopt principles and design review guidelines for altering, restoring, moving, or demolishing properties designated as historic landmarks.

- (C) In accordance with NCGS 160A-400.6(2), the Commission shall make or cause to be made an investigation and report on the archaeological, historical, architectural, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. The investigation and report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.
- (D) In accordance with NCGS 160A-400.6(3), the North Carolina Department of Cultural Resources shall be given the opportunity to review and comment upon the substance and effect of the designation of any historic landmark. Any comments shall be provided in writing. If the Department of Cultural Resources does not submit its comments within thirty (30) days following receipt by the Department of the investigation and report, the Commission and the Elected Body are relieved of any responsibility to consider such comments.
- (E) The Commission shall hold a public hearing on the proposed designation ordinance. It shall recommend to the Elected Body, as appropriate, approval of designation or denial of designation of the proposed historic landmark.
- (F) The Elected Body, as appropriate, shall hold a public hearing on the proposed designation ordinance. Following the public hearing, the Elected Body may adopt the designation ordinance as proposed, adopt the designation ordinance with any amendments it deems necessary, or reject the proposal.
- (G) Upon adoption of the designation ordinance, the following provisions shall apply:
  - (1) The owners and occupants of each designated historic landmark shall be given written notification of such designation by Commission staff, insofar as reasonable diligence permits.
  - (2) One (1) copy of the ordinance and each amendment thereto shall be filed by the Commission staff in the office of the Register of Deeds of Forsyth County. Each historic landmark designated in the ordinance shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds office.
  - (3) One (1) copy of the ordinance and each amendment thereto shall be given to the appropriate Inspections Division.
  - (4) One (1) copy of the ordinance and each amendment thereto shall be kept on file in the office of the appropriate County/City/Town/Village Clerk, and made available for public inspection at any reasonable time.

- (5) The fact that a building, structure, site, area or object has been designated as an historic landmark shall be clearly indicated on all tax maps maintained by Forsyth County for such period as the designation remains in effect.
- (6) The Commission shall give notice of the adoption of a designation ordinance and any amendment thereof to the Forsyth County Tax Supervisor. The designation and any recorded restriction upon the property limiting its use for preservation purposes shall be considered by the Tax Supervisor in appraising the property for tax purposes.

#### **4-5 HISTORIC DISTRICTS -- ESTABLISHMENT AND AMENDMENT**

The following Historic Districts are hereby established.

##### **4-5.1 H HISTORIC DISTRICT**

- (A) The H District is established as a separate use district. The purpose of the H District is to:
  - (1) Safeguard the heritage of the community by preserving those areas that embody important elements of the community's culture, history, architectural history, or archaeology; and,
  - (2) Promote the use and conservation of such areas for the education, pleasure, and enrichment of the residents of Forsyth County and the State.
- (B) The boundaries of the H Districts are shown on the Official Zoning Maps.

##### **4-5.2 HO HISTORIC OVERLAY DISTRICT**

- (A) The HO District is established as a district which overlays existing zoning districts in designated historic areas. The purpose of the HO District is to:
  - (1) Safeguard the heritage of the community by preserving those areas that embody important elements of the community's culture, history, architectural history, or archaeology; and,
  - (2) Promote the use and conservation of such areas for the education, pleasure, and enrichment of the residents of Forsyth County and the State.
- (B) The boundaries of the HO Districts are shown on the Official Zoning Maps.

### **4-5.3 ESTABLISHMENT AND AMENDMENT PROCEDURE**

#### **(A) Establishment**

The Elected Bodies may designate one or more geographic areas as an H or HO District. The following shall be the procedure for establishing H or HO Districts:

- (1) Requests for establishment of H or HO Districts may be made in any one of the following methods:
  - (a) by the Elected Bodies of Forsyth County;
  - (b) by property owners within an affected area;
  - (c) by a neighborhood group, association, or coalition;
  - (d) at the initiative of the Commission.
- (2) All requests shall first be presented to the Commission. The Commission shall conduct a preliminary consideration of the request to determine the eligibility of the general area proposed to become an H or HO District.
- (3) If the Commission determines by vote that said general area is ineligible to become an H or HO District, the Commission shall report such determination to the appropriate Elected Body. The Elected Body may accept the determination of the Commission, or it may direct the Commission to proceed in accordance with this Article as if the Commission's determination had been that said general area was eligible to become an H or HO District.
- (4) If the Commission determines by vote that said general area is eligible to become an H or HO District, it shall notify property owners within said general area, through first class mail, that establishment of a designated historic district has been proposed and that the formation of a task force to prepare a detailed study for such establishment will be considered by the Commission at a specified date and time.
- (5) The Commission may appoint a task force to develop design review guidelines and boundaries for said general area. The task force shall be composed primarily of individuals representing various interests in said general area.
- (6) After developing design review guidelines and boundaries, the task force shall report to the Commission.
- (7) The Commission shall review the design review guidelines and boundaries and shall then vote on whether to accept the task force report.

- (8) Once the task force report has been accepted, the Commission shall schedule at least two (2) public informational meetings about the proposed district. Property owners within the proposed boundary area shall be notified of the public informational meetings through first class mail and through notice in a newspaper having general circulation in the area.
- (9) The Commission shall hold the public informational meetings and receive questions and comments.
- (10) The Commission shall consider revisions to the proposed design review guidelines and boundaries, as necessary, and prepare final proposed design review guidelines and boundaries.
- (11) The Commission shall prepare and submit a report to the Director of Planning and the North Carolina Department of Cultural Resources. The report shall include, but not be limited to, the following information:
  - (a) A boundary description of the area;
  - (b) A map at a scale of not less than one inch represents two hundred (200) feet (1" equals 200'), showing the boundaries of the proposed area; and,
  - (c) A description of the significance of the area, including its buildings, structures, features, sites, or surroundings.
- (12) The North Carolina Department of Cultural Resources shall submit an analysis of, and recommendations concerning, the report described in Section 4-5.3(A)(11) above to the Elected Body. Failure of the North Carolina Department of Cultural Resources to submit written analysis and recommendations to the Elected Body within thirty (30) calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the County/City/Town/Village of any responsibility for awaiting such analysis, and the Elected Body may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.
- (13) Once all the previous procedural steps have been met, an application for rezoning the said general area to an H or HO District shall be accepted. The County/City/Town/Village shall proceed in the same manner as would otherwise be required for a change in the Zoning Ordinance and the request shall be processed according to the procedures set forth in Chapter B, Section 6-2 of the Zoning Ordinance. In addition, the design review guidelines for the proposed district shall be made available to the Elected Body for its review and comment.

- (14) Sections 4-5.3(A)(1)-(9) shall not apply to a rezoning petition for a proposed H or HO District for which a task force has been previously appointed to study said general area and has submitted a report to the Commission.

(B) Amendment

The following shall be required to amend, supplement, change, modify, or repeal any district boundaries of the H or HO Districts.

- (1) The Commission shall prepare and submit a report to the Director of Planning and the North Carolina Department of Cultural Resources. The report shall include, but not be limited to, the following information:
  - (a) A boundary description of the area;
  - (b) A map at a scale of not less than one inch represents two hundred (200) feet (1" equals 200'), showing the boundaries of the proposed area; and,
  - (c) A description of the significance of the area, including its buildings, structures, features, sites, or surroundings.
- (2) The North Carolina Department of Cultural Resources shall include an analysis of and recommendations concerning the report described in Section 4-5.3(B)(1) above to the Elected Body. Failure of the North Carolina Department of Cultural Resources to submit written analysis and recommendations to the Elected Body within thirty (30) calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the County/City/Town/Village of any responsibility for awaiting such analysis, and the Elected Body may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.
- (3) Once all the previous procedural steps have been met, an application to amend, supplement, change, modify, or repeal any district boundaries of the H or HO Districts shall be accepted. The County/City/Town/Village shall proceed in the same manner as would otherwise be required for a change in the Zoning Ordinance and the request shall be processed according to the procedures set forth in Chapter B, Section 6-2 of the Zoning Ordinance.

## **4-6 H AND HO DISTRICT USES AND DIMENSIONAL REQUIREMENTS**

### **4-6.1 H DISTRICT REGULATIONS**

#### **(A) Permitted Uses**

In H Districts, the following principal and accessory uses are permitted:

- (1) Any use found by the Commission to have existed on the particular property in or prior to 1856 in the Old Salem Historic District, and in or prior to 1832 in the Bethabara Historic District;
- (2) Any single family residential use which is allowed without a special use permit from the Board of Adjustment;
- (3) A religious institution, college or university, or operation of an historic preservation organization with purposes related to the district; and,
- (4) Uses normally accessory to the principal uses permitted above.

#### **(B) Nonconforming Uses**

Prior to its acting upon an application for a special use permit pursuant to Chapter B, Section 6-2 of the Zoning Ordinance to expand or convert a nonconforming use in the H Districts, the Board of Adjustment shall first receive the recommendation of the Commission with respect to such application.

#### **(C) Dimensional Requirements for New Construction**

- (1) Requirements. All buildings and structures in the H Districts shall comply with the following yard and height provisions:
  - (a) Front Yard. No building or part of a building, other than steps, open porches, overhanging eaves, and cornices, shall extend nearer to a front street line than the average distance of the setbacks of the principal buildings on the same block and on the same side of the street within one hundred (100) feet from the zoning lot in either direction. Provided, however, that in no case shall the front setback be less than eight (8) feet, and no building shall be required to set back more than forty (40) feet from the front street line.
  - (b) Side Yards. There shall be a side yard of not less than seven (7) feet on each side of the principal building. This restriction shall not apply to accessory buildings.

- (c) Rear Yard. There shall be a rear yard with a depth of not less than thirty-five (35) feet. When a building extends through from street to street, the front yard restrictions shall be observed on both streets.
  - (d) Height. No building shall exceed a height of thirty-five (35) feet.
- (2) Exceptions to Dimensional Requirements Due to Authentic Restoration and Reconstruction. In the event that the Commission finds that an application for a building permit covers activity constituting an authentic restoration or reconstruction of a building or structure that existed at the same location in or prior to 1856 in the Old Salem Historic District or in or prior to 1832 in the Bethabara Historic District, said building or structure may be restored or reconstructed at the same location where the original building or structure was located.

Any items restored, reconstructed, or maintained over, on, or within public sidewalks, public alley areas, or other such public way shall be the responsibility of the owner. The owner's restoration, reconstruction, or maintenance of any such item shall constitute the owner's agreement to protect and hold the County/City/Town/Village blameless against any and all liability, cost, damage, or expense suffered or sustained by the County/City/Town/Village as a result of or growing out of the restoration, reconstruction, or maintenance. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the street or alley shall be, at its lowest point, seven (7) feet above the travel way. The provisions of this subsection shall prevail over inconsistent or conflicting provisions of this Ordinance.

(D) Animals

In the H Districts, the keeping of swine, goats, geese, or peafowl is allowed.

#### **4-6.2 HO DISTRICT REGULATIONS**

(A) Permitted Uses

The HO District is established as a district which overlays existing residential and nonresidential zoning districts in certain areas with historic resources. All uses permitted in these residential and nonresidential districts, whether by right or as a special use, shall be permitted in the HO District according to the procedures established for such uses.



(B) Dimensional Requirements

- (1) Requirements. All buildings and structures in the HO Districts shall comply with the dimensional requirements established in the design review guidelines adopted for each separate HO District. Design review guidelines are addressed in Section 4-7.5.
- (2) Exceptions to Dimensional Requirements Due to Authentic Restoration or Reconstruction. In the event that the Commission finds that an application for a building permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original conformation of the structure of historic and/or architectural significance to the HO District, said building or structure may be restored or reconstructed at the same location where the original building or structure was located.

Any items restored, reconstructed, or maintained over, on, or within public sidewalks, public alley areas, or other such public way shall be the responsibility of the owner. The owner's restoration, reconstruction, or maintenance of any such item shall constitute the owner's agreement to protect and hold the County/City/Town/Village blameless against any and all liability, cost, damage, or expense suffered or sustained by the County/City/Town/Village as a result of or growing out of the restoration, reconstruction, or maintenance. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the street or alley shall be, at its lowest point, twelve (12) feet above the travel way. The provisions of this subsection shall prevail over inconsistent or conflicting provisions of this Ordinance.

(C) Parking Variance

Where the Commission, in considering an application for a certificate of appropriateness, finds that the number of off-street parking spaces required by this Ordinance for a building or structure for which a building permit is required would render the building incongruous with the historic aspects of the designated district, it may recommend to the Board of Adjustment a variance, in part or in whole, of the off-street parking requirements. The Board of Adjustment may authorize a lesser number of off-street parking spaces, provided:

- (1) The Board of Adjustment finds that the lesser number of off-street parking spaces will not create problems due to increased on-street parking; and,

- (2) The Board of Adjustment finds that the lesser number of off-street parking spaces will not constitute a threat to the public safety.

#### **4-7 CERTIFICATE OF APPROPRIATENESS**

##### **4-7.1 REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS FOR LOCAL HISTORIC LANDMARKS (LHL)**

From and after the designation of a Local Historic Landmark (LHL), no designated portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished on such designated historic landmark until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Guidelines either through consultation with Commission staff or review of the Design Review Guidelines.

The City/County/Town/Village shall require a Certificate of Appropriateness 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 Ordinance.

If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in Section 4-7.5.

A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.

For the purposes of the section, the term "designated portion" shall mean any portion of a designated historic landmark that was included in the ordinance designating the landmark, including the main structure or structures, the interior or portions of the interior, any outbuildings or secondary structures, site elements, and landscaping.

Where the exterior of a building or structure is designated as an historic landmark, the term "exterior features" shall mean 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 or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. 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. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

#### **4-7.2 REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS IN HISTORIC AND HISTORIC OVERLAY DISTRICTS**

Within an H or HO District, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Guidelines either through consultation with Commission staff or review of the appropriate Design Review Guidelines.

The City/County/Town/Village shall require a Certificate of Appropriateness 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 Ordinance.

If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in Section 4-7.5.

A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.

For the purposes of the section, the term "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 or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. 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. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

### **4-7.3 CIRCUMSTANCES NOT REQUIRING CERTIFICATES OF APPROPRIATENESS**

No certificate of appropriateness shall be required for:

- (A) The routine maintenance or repair, as defined in the applicable design review guidelines, of any exterior architectural feature in an H or HO District or on a Local Historic Landmark (LHL) which does not involve a change in design, material, or outer appearance;
- (B) The construction, reconstruction, alteration, restoration, moving, or demolition of any such feature which the building inspector or similar official shall certify in writing to the property owner and to the Commission is required by the public safety because of an unsafe or dangerous condition; and,
- (C) The maintenance of any existing above-ground utility structure or, in the event of an emergency, the immediate restoration of any existing above-ground utility structure.

### **4-7.4 PROCEDURES**

The following procedures shall govern the issuance of a Certificate of Appropriateness.

#### **(A) Applications**

Application for a Certificate of Appropriateness shall be submitted to Commission staff on forms provided. The Commission shall, in its Rules of Procedure, require such data and information as is reasonably necessary to evaluate the nature of the application. An application for a Certificate of Appropriateness shall not be considered complete until all required information has been submitted. For properties within H and HO Districts, the names and mailing addresses of the property owners filing the application and the names and addresses of the property owners within one hundred (100) feet on all sides of the property which is the subject of the application must also be filed.

#### **(B) Application to Historic Resources Commission**

Commission staff shall transmit the Certificate of Appropriateness application, together with the supporting information and material, to the Commission for consideration.

(C) Notice and Hearing Within H and HO Districts

Commission staff will make a reasonable attempt to identify and notify by mail the owners of any property located within one hundred (100) feet on all sides of the property which is the subject of the application. Prior to issuance or denial of a Certificate of Appropriateness, the Commission shall give the applicant and other property owners and/or residents likely to be affected by the application an opportunity to be heard.

(D) Viewing Site

As part of its review procedure, the Commission may, solely in performance of its official duties and only at reasonable times, enter upon private lands to view the premises. However, no member, employee, or agent of the Commission may enter any private building or structure without the express permission of the owner or occupant thereof. Additionally, the Commission may seek the advice of the North Carolina Division of Archives and History or such other expert advice as the Commission may deem necessary.

(E) Time for Action

The Commission shall act upon complete applications within one-hundred-twenty (120) calendar days after the filing, unless an extension of time has been mutually agreed upon between the Commission and the applicant. Otherwise, failure to act upon a complete application shall be deemed to constitute approval and a Certificate of Appropriateness shall be issued.

(F) Form of Decision

All formal actions of the Commission shall be set forth in writing. In case of approval, the Commission shall transmit to the property owner a Certificate of Appropriateness clearly describing the work that has been approved, and any conditions of the approval. In case of denial, the Commission shall transmit to the property owner a letter stating the findings on which the decision was based. Additionally, the Commission may, as it deems appropriate, make recommendations concerning any exterior or interior (where applicable), features of the proposed project which may be of guidance and help to the applicant in revising the plans and application. The Commission shall also provide the Zoning Officer with a copy of the formal correspondence to the property owner.

(G) Time Limits

Each Certificate of Appropriateness is issued subject to the following two conditions: (1) If a building permit is required to perform all or any part of the work authorized by a Certificate of Appropriateness, such building permit must be procured within six months from the date the Certificate of Appropriateness was issued; and, (2) If a building permit is not required for any part of the work authorized by a Certificate of Appropriateness, such work must be completed within six months from the date the Certificate of Appropriateness was issued. Upon failure to comply with the applicable condition, the Certificate of Appropriateness shall expire, subject to its being renewed. If a request is made to renew an expired Certificate of Appropriateness within twelve months of its issuance, Commission staff may renew it. All other renewals of an expired Certificate of Appropriateness may only be made by the Commission. A Certificate of Appropriateness shall be renewed unless it is found that a change has occurred that would allow the work authorized by the expired Certificate of Appropriateness to impair the integrity of an historic landmark, property, or district as a whole or would be incongruous with the special character of an historic landmark, property, or district. No request to renew that contemplates substantive changes to the work authorized by the expired Certificate of Appropriateness may be granted. Such a request may be made by submitting an application for a new Certificate of Appropriateness.

(H) Approval of Minor Works

The Commission may delegate to Commission staff the review and approval of minor works for the Local Historic Landmarks (LHL), and for the Historic (H) and Historic Overlay (HO) Districts after approval of Design Review Guidelines for the Local Historic Landmarks (LHL) and each Historic (H) and Historic Overlay (HO) District. Minor works are defined as projects which do not involve substantial alterations, additions, or removals that could impair the integrity of an historic landmark, property, and/or a district as a whole or be incongruous with the special character of an historic landmark, property, or district. Minor works require a Certificate of Appropriateness. A minor works application may be filed at any time and no public notification is required for review of a minor work application. No minor works application may be denied by Commission staff. If Commission staff cannot approve a minor works application, it shall be presented to the Commission for review and formal action.

(I) Reapplication after Denial

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 the application, or if conditions related to the Local Historic Landmark (LHL) or H or HO District or surrounding uses have changed. A reconsidered application shall be treated as a new application.

(J) Demolition Permits

An application for a Certificate of Appropriateness authorizing the relocation or demolition of a designated historic landmark or building or structure within an H or HO District may not be denied; however, the effective date of such Certificate may be delayed for not more than three hundred and sixty-five (365) calendar days from the date of approval. The maximum delay may be reduced by the Commission when it finds that delay would impose an extreme hardship on the owner or would permanently deprive the owner of all beneficial use or return from such property from such delay. During the period of delay, the Commission may negotiate with the owner and other parties in an effort to preserve the building or structure. If the Commission finds that the building or structure has no particular significance or value toward maintaining the character of the designated landmark or district, it shall waive all or part of such period and authorize earlier demolition or removal.

(K) Applicability to County, City, Town, Village and Utility Companies

The County/City/Town/Village and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating on a Local Historic Landmark (LHL) or in an H or HO District any changes in the character of street paving, sidewalks, trees, utility installations, walls, lighting, fences, structures, and buildings on property, easements, or streets owned or franchised by the County/City/Town/Village or public utility companies.

(L) Appeals

An appeal of a decision of the Commission in granting or denying any Certificate of Appropriateness may be taken to the appropriate Board of Adjustment. Appeals may be taken by any aggrieved party within thirty (30) calendar days after the decision of the Commission and shall be in the nature of certiorari (only evidence presented at the Commission's meeting shall be considered at the appeal). Appeal from the decision of the Board of Adjustment shall be to the Forsyth County Superior Court.

(M) Inspection after Issuance of Certificate

The Zoning Officer shall from time to time inspect the construction or alteration approved by a Certificate of Appropriateness and report to the Commission any work not in conformance with the Certificate of Appropriateness.

#### **4-7.5 STANDARDS FOR REVIEW**

A Certificate of Appropriateness shall be issued or denied in accordance with the following standards.

(A) General Criteria

In granting a Certificate of Appropriateness, the Commission shall take into account the historic or architectural significance of the property under consideration and the exterior and interior (where applicable), form and appearance of any proposed additions or modifications to a structure. The Commission shall not consider interior arrangement in H and HO Districts.

(B) General Restriction on Denial

The Commission shall not refuse to issue a Certificate of Appropriateness except for the purpose of preventing the construction, reconstruction, alteration, restoration, or moving of buildings, structures, appurtenant features, or outdoor advertising signs which would be incompatible with the Design Review Guidelines.

(C) Design Review Guidelines Required

The requirement for a Certificate of Appropriateness shall not become effective until after the Commission has prepared and adopted principles and guidelines not inconsistent with Part 3C of Article 19 of Chapter 160A of the NCGS. Such principles and guidelines, hereafter referred to as Design Review Guidelines, shall be prepared for the Local Historic Landmarks (LHL), and for each H and/or HO District and shall address new construction, alterations, additions, moving, and demolition to properties and/or sites. These criteria shall take into account the historic, architectural, and visual elements which are unique to the designated landmarks and districts.



(D) Design Review Guidelines Amendment

Prior to the amendment of design review guidelines for the Local Historic Landmarks (LHL) or any H or HO District, any person may comment upon the proposal. Not less than forty-five (45) days prior to the public hearing at which the Commission proposes to act upon the amendment(s), copies of the proposed amendment(s) shall be made available to the Elected Bodies, and any other interested person upon request. Concurrently, the Commission shall cause notice of the public hearing at which the proposed amendment(s) will be considered for adoption to be published in a newspaper of general circulation in Winston-Salem.

**4-8 COMPLIANCE**

Compliance with the provisions of this section shall be enforced by the appropriate Zoning Officer. Failure to comply with this Section and provisions of a Certificate of Appropriateness shall be unlawful and a violation of the Zoning Ordinance, and all remedies authorized by law for noncompliance with this Ordinance may be exercised to enforce this section.

**Section 2.** This ordinance shall become effective June 1, 2001.