

## **4.12. HISTORIC PRESERVATION OVERLAY (HPOD) DISTRICT**

### **4.12.1. Purpose.**

Sanford's designated historic districts, hereinafter referred to as the "districts," and historic landmarks, hereinafter referred to as "landmarks" are some of the most valued and important assets of the City of Sanford, Town of Broadway, Lee County and the state. They are established for the purpose of protecting and conserving the heritage of the County of Lee, and state; for the purpose of safeguarding the character and heritage of the districts by preserving the districts as a whole and any property therein that embodies important elements of their social, economic, cultural, political, or architectural history; for the purpose of promoting the conservation of such districts or landmarks for the education, pleasure and enrichment of residents of the districts and the City of Sanford, Town of Broadway, Lee County and the state as a whole; for the purpose of fostering civic beauty; and for the purpose of stabilizing and enhancing property values throughout the districts as a whole, thus contributing to the improvement of the general health and welfare of the City of Sanford, Town of Broadway, Lee County and the state and the residents of the districts. This section implements the following provisions of the land use plan:

- Maintain the historic character of the community (Historic Preservation, Goal 1)
- Identify future Historic Districts (Historic Preservation, Goal 2)
- Maintain the integrity of existing historic districts, and expand historic districts where possible (Historic Preservation, Goal 3)

### **4.12.2. Historic district establishment.**

**4.12.2.1.** The historic districts are hereby established as districts which overlay existing zoning districts, the extent and boundaries of which are as indicated on the official zoning map for the County of Lee. The boundaries of the districts are as shown on the official zoning map.

**4.12.2.2.** Historic districts, as provided for in this section, may from time-to-time be designated, amended, or repealed, provided; however, that no district shall be recommended for designation unless it is deemed to be of special significance in terms of its history, prehistory, architecture, and/or culture and to possess integrity of design, setting, materials, feeling, and/or association. No district shall be designated, amended, or repealed until the following procedure has been carried out:

(a) An investigation and report describing the significance of the buildings, structures, features, sites, or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared, and;

(b) The department of cultural resources, acting through the state historic preservation officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. The districts shall not be established and the authority and the powers established by this section shall not be implemented until the department of cultural resources has been given an opportunity, in accordance with the provisions of G.S. 160A-400.4(2), to make recommendations with respect to the establishment of the districts. Failure of the department to submit its written analysis and recommendations to the appropriate governing body within 30

calendar days after a written request for such analysis has been received by the department of cultural resources shall relieve the appropriate governing body of any responsibility for awaiting such analysis, and the appropriate governing body may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

(c) The appropriate governing body may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendations prior to taking action to amend the zoning ordinance.

(d) With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subsection

(a), above, shall be prepared by the historic preservation commission and shall be referred to the planning commission for its review and comment according to the procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall be submitted to the department of cultural resources in accordance with the provisions of subsection

(b), above.

(e) Upon receipt of these reports and recommendations, the appropriate governing body may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning provisions.

### **4.12.3. Historic landmark establishment.**

**4.12.3.1.** The governing body may adopt, and from time-to-time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the historic preservation commission to be of special significance in terms of its historical, prehistoric, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling, and/or association.

**4.12.3.2.** The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural or prehistoric value, including the land area of the property so designated, and any other information the governing body deems necessary. For each building, structure, site, area or object so designated as a landmark, the ordinance shall require that the delay set forth in section 4.12.11 be observed prior to its demolition. A suitable sign for each property designated as a landmark may be placed on the property at the owner's consent.

**4.12.3.3.** No property shall be designated as a landmark until the following steps have been taken:

(a) As a guide for the identification and evaluation of landmarks, the historic preservation commission shall, at the earliest possible time and consistent with

the resources available to it, undertake an inventory of properties of historical architectural, prehistoric, and cultural significance within the County of Lee.

(b) The historic preservation commission shall make or cause to be made an investigation and report on the historic, architectural, prehistoric, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. Such report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.

(c) The department of cultural resources shall be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. All comments shall be provided in writing. If the department does not submit its comments to the historic preservation commission within 30 days following receipt by the department of the report, the historic preservation commission and the governing body shall be relieved of any responsibility to consider such comments.

(d) The historic preservation commission and the appropriate governing body shall hold a joint public hearing (or separate public hearings) on the proposed ordinance. Reasonable notice of the time and place thereof shall be given.

(e) Following the public hearing(s), the historic preservation commission and the appropriate governing body may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

(f) Upon adoption of the ordinance, the owners and occupants of each landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and amendments thereto shall be filed by the historic preservation commission in the office of the Register of Deeds of Lee County. Each landmark shall be indexed according to the name of the owner of the property in the grantor and grantee indexes in the register of deeds office and the historic preservation commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments thereto shall be kept on file in the office of the clerk of the City of Sanford, Town of Broadway, or Lee County and shall be made available for public inspection at any reasonable time.

(g) Upon the adoption of the landmark ordinance or any amendments thereto, it is the duty of the historic preservation commission to give notice thereof to the tax supervisor of Lee County.

#### **4.12.4. Permitted uses.**

The districts contain several underlying zoning classifications. All uses permitted in any such underlying district, whether by right or as a special use, shall be permitted in the historic districts according to the procedures established for such uses.

#### **4.12.5. Dimensional regulations.**

Structures within the historic districts shall observe the dimensions and other regulations of this ordinance, except as otherwise provided herein. No structures or part thereof

shall be required to be set back further from the front lot line or side lot line than the average distance of the setbacks of the nearest principal buildings within 300 feet on each side of such building and fronting on the same side of the street.

Where the historic preservation commission finds that an authentic restoration or reconstruction of a structure meets the requirements of [section] 4.12.6 of this section, such activity shall be exempt from the dimensional regulations of the underlying zoning district.

#### **4.12.6. Authentic restoration or reconstruction.**

**4.12.6.1.** Where the historic preservation commission renders a finding as to the following, such activity may be approved by the historic preservation commission:

- (a) That an application for a building permit covers activity constituting an authentic restoration or reconstruction; and
- (b) The activity will occur in the same location as the original location; and
- (c) Any modification to the structure will conform to the historic and/or architectural significance of the historic district.

**4.12.6.2.** The historic preservation commission, in approving such authentic reconstruction or restoration, may attach reasonable and appropriate conditions to the approval, such that the public health, safety and general welfare shall be protected.

**4.12.6.3.** The historic preservation commission shall not be authorized, in action undertaken pursuant to this section, to approve a use of property which is not a use permitted by right or as a special use within the district in which the property is located.

**4.12.6.4.** In addition to any other condition the historic preservation commission may make regarding such authorization, any items restored, reconstructed, or maintained on, over, or within a public sidewalk, public alley area, or other such public way shall be the responsibility of the owner, his heirs and assigns. The owner's restoration, reconstruction, or maintenance of any such item within such area shall constitute the owner's agreement to protect and hold the City of Sanford, Town of Broadway or County of Lee (as applicable) blameless against any and all liability, cost, damage, or expense suffered by the City of Sanford, Town of Broadway or County of Lee (as applicable) as a result of or growing out of the restoration, reconstruction, or maintenance thereof. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the vehicular truck way of a street or alley shall be, at its lowest point, ten feet above the travel way.

#### **4.12.7. Parking waiver.**

The minimum parking requirements of the parking regulations (article 8) shall not apply within an approved "H" historic overlay district.

#### **4.12.8. Certificate of appropriateness.**

##### **4.12.8.1. *Applicability.***

(a) From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps, and pavement, or other appurtenant features) no above-ground utility structure nor any type of outdoor advertising sign or business identification sign shall be erected, altered, restored, moved, or demolished on such landmark or within the historic district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the historic preservation commission. The County of Lee shall require such a certificate to be issued by the historic preservation commission prior to the issuance of a compliance permit or building 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 purpose of this part. A certificate of appropriateness shall be required whether or not a building permit or compliance permit is required. Any building permit or such other permit not issued in conformity with this section shall be invalid.

(b) For purposes of this section, "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size, and location of all such signs. Such "exterior features" may, in the discretion of the local governing board, include historic signs, color, and significant landscape, archaeological, and natural features of the area.

(c) Except as provided in subsection (d) below, the historic preservation commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district which would be incongruous with the special character of the landmark or district.

(d) Notwithstanding subsection (c) of this section, jurisdiction of the historic preservation commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of an owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the register of deeds of Lee County and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the historic preservation commission's jurisdiction over the interior.

(e) The County of Lee and all public utility companies shall be required to notify the historic preservation administrator prior to initiating any changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls,

fences, structures and buildings on property, easements, or streets owned or franchised by the County of Lee or public utility companies. Such entity shall replace any changes described above with similar types of materials.

**4.12.8.2. Procedures.**

(a) An application for a certificate of appropriateness shall be obtained from and, when completed, filed with the department of community development historic preservation administrator. Applications for certificates of appropriateness shall be considered by the historic preservation commission at its next regular meeting, provided they have been filed, complete in form and content, at least 21 days prior to the regularly scheduled meeting of the historic preservation commission; otherwise, consideration shall be deferred until the following meeting.

Historic preservation commission staff may review and approve applications for a certificate of appropriateness for minor works, as amended by the historic preservation commission. No application for a certificate of appropriateness may be denied without formal action by the historic preservation commission.

(b) The historic preservation commission shall, by uniform rule in its rules of procedure, require data as are reasonably necessary to determine the nature of the application. An application for a certificate of appropriateness shall not be considered complete until all required data have been submitted. Nothing shall prevent the applicant from filing with the application additional relevant information bearing on the application.

(c) Upon receipt of an application, the historic preservation administrator shall notify the historic preservation commission at least seven calendar days before its regularly scheduled meeting.

(d) Prior to issuance or denial of a certificate of appropriateness, the historic preservation commission shall conduct a public hearing in accordance with section 3.1.5.3.3 of this ordinance. The department of community development shall notify the affected parties per section 3.1.5.3.4 of this ordinance.

(e) The historic preservation commission shall take action on the application and in doing so shall apply the standards prescribed in section 4.12.9, below.

(f) The historic preservation commission's action on the application shall be approval, approval with conditions, or disapproval.

(g) Prior to final action on an application, the historic preservation commission, using the standards in section 4.12.9, below, shall make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the district.

(h) The historic preservation commission shall cause to be entered into the minutes of its meeting the reasons for its action, whether it be approval, approval with conditions, or denial.

(i) If the historic preservation commission fails to take final action upon any application within 60 days after the complete application is submitted to the department of community development historic preservation commission, the application shall be deemed to be approved.

(j) If the historic preservation commission determines that a certificate of appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving.

(k) As part of its review procedure, the historic preservation commission may view the premises and seek the advice of the department of cultural resources or such other expert advice as it may deem necessary under the circumstances.

#### **4.12.9. Review criteria.**

##### **4.12.9.1. Generally.**

(a) It is the intention of these regulations to insure, insofar as possible, that exterior features including construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district or of landmarks shall be harmonious with the special character of the district or landmark. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings or to impose architectural styles from particular historic periods. In considering new construction, the historic preservation commission shall encourage contemporary design which is harmonious with the character of the district.

(b) In granting a certificate of appropriateness, the historic preservation commission shall take into account the historic or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure as well as the effect of such change or additions upon other structures in the vicinity. In applying these standards, the historic preservation commission shall consider the Secretary of Interiors Standards for Treatment of Historic Properties, 1995, as amended, which document is hereby incorporated by this reference.

(c) The historic preservation commission shall take no action under this ordinance except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant features, outdoor advertising signs, or other significant features which would be incongruous with the special character of the historic district or landmark.

**4.12.9.2. Exterior form and appearance.** The following criteria shall be considered, when relevant, by the historic preservation commission in reviewing applications for a certificate of appropriateness. All applications for certificates of appropriateness shall be subject to review based upon the design guidelines then in effect for the particular historic district. These guidelines shall be established in a document prepared and adopted by the historic preservation commission, and shall be adopted and incorporated by reference in the ordinance designating the historic overlay district or any amendment

thereto. When adopted, the guidelines shall become incorporated by reference as a part of this ordinance as if set forth in their entirety herein. The guidelines may address the following:

- Lot coverage, defined as the percentage of lot area covered by primary structures; setback, defined as the distance from the lot lines to the building(s);
- Building height;
- Spacing of buildings, defined as the distance between adjacent buildings;
- Exterior building materials; proportion, shape, positioning, location, pattern and sizes of any elements of fenestration;
- Surface textures; roof shapes, forms and materials;
- Use of local or regional architectural traditions; general form and proportions of buildings and structures, and relationship of any additions to the main structure;
- Expression of architectural detailing, such as lintels, cornices, brick bond, and foundation materials;
- Orientation of the building to the street;
- Scale, determined by the size of the units of construction and architectural details in relation to the size of man and also by the relationship of the building mass to adjoining open space and nearby buildings and structures;
- Proportion of width to height of the total building facade;
- Archaeological sites and resources associated with standing structures;
- Appurtenant fixtures and other features such as lighting;
- Structural condition and soundness; walls--physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses, building facades, or combination of these;
- Ground cover or paving; maintenance of pedestrian scale and orientation as well as provision for safe pedestrian movement;
- Color;
- Effect of trees and other landscape elements; and
- Style, material, size, and location of all outdoor signs.
  - (a) The Secretary of the Interior's "Standards for the Treatment of Historic Properties," 1995, as amended, shall be the sole principles and guidelines used in reviewing applications of the State of North Carolina for certificates of appropriateness.

(b) Interior arrangement or design shall be exempt from review by the historic preservation commission. Interior construction and/or reconstruction shall not require a certificate of appropriateness.

#### **4.12.10. Certain changes not prohibited.**

Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the historic district which does not involve a substantial change in design, material, or outer appearance thereof, nor to prevent the construction, alteration, restoration, or demolition of any such feature which the building inspector, zoning enforcement officer or similar official shall certify in writing to the historic preservation commission is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent (a) the maintenance, or (b) in the event of an emergency, the immediate restoration, of any existing above-ground utility structure with approval by the historic preservation commission.

#### **4.12.11. Delay in demolition.**

**4.12.11.1.** An application for a certificate of appropriateness authorizing the demolition, removal, or destruction of a designated landmark or a building structure or site within a historic district may not be denied. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The period of delay shall be reduced by the historic preservation commission if it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During the delay period the historic preservation commission shall negotiate with the owner in an effort to find a means of preserving the building, structure, or site. If the historic preservation commission finds that a building, structure, or site has no special significance or value toward maintaining the character of a district, it shall waive all or part of such period of delay and authorize earlier demolition or removal.

**4.12.11.2.** In the case of action initiated by the appropriate governing body, the application for such a certificate will first be reviewed by the historic preservation commission and then by the appropriate governing body for a final order of demolition or removal. The historic preservation commission shall consider the code enforcement officer's inspections and recommendations for demolition or removal of the building or structure.

If the historic preservation commission has voted to recommend the designation of a landmark or the designation of an area as a historic district and the final designation has not been made by the appropriate governing body, the demolition or destruction of any building, structure, or site in the proposed district or on the property of the designated landmark may be delayed by the historic preservation commission for up to 180 days or until the appropriate governing body takes final action on the designation, whichever occurs first.

#### **4.12.12. Appeal of decision.**

**4.12.12.1.** In any action granting or denying a certificate of appropriateness, an appeal by an aggrieved party may be taken to the board of adjustment.

**4.12.12.2.** Written notice of the intent to appeal must be sent to the historic preservation commission, postmarked within 30 days following the decision. Appeals shall be in the nature of certiorari. Appeals of decisions of the board of adjustment shall be heard by the Superior Court of Lee County.

**4.12.12.3.** The State of North Carolina shall have a right of appeal to the North Carolina Historical Commission, which shall render its decision with 30 days from the date that a notice of appeal by the state is received by the historical commission. The decision of the historical commission shall be final and binding upon both the state and the historic preservation commission.

**4.12.13. Compliance.**

**4.12.13.1.** Compliance with the terms of the certificate of appropriateness shall be enforced by the historic preservation administrator. Failure to comply with a certificate of appropriateness shall be a violation of the zoning ordinance. The discontinuance of work or the lack of progress toward achieving compliance with a certificate of appropriateness for a period of one year shall be considered as a failure to comply with a certificate of appropriateness.

Nothing contained in this ordinance shall prohibit, impair, or limit in any way the power of the County of Lee to prevent the construction, reconstruction, alteration, restoration, or removal of buildings, structures, appurtenant fixtures, or outdoor signs in the historic districts in violation of the provisions of this ordinance. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. (See G.S. 153A-123, 153A-372, 160A-175 and 160A-389.)