

CHAPTER 153: HISTORIC DISTRICT

Section

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§153.01 PURPOSE

The historical heritage of the Town of Warrenton is a valued and important asset. The conservation and preservation of historic districts and landmarks stabilize and increase property values in their areas and strengthen the overall economy of the State. This Ordinance establishes a historic preservation commission for the following purposes:

(A) To safeguard the heritage of Warrenton by preserving any district or landmark therein that embodies important elements of its culture, history, architectural history, or prehistory; and

(B) To promote the use and conservation of such district or landmark for the education, pleasure and enrichment of the residents of the Town and the State as a whole.

§153.02 CREATION OF THE HISTORIC PRESERVATION COMMISSION FOR THE TOWN OF WARRENTON, NORTH CAROLINA

(A) There is hereby established a Historic Preservation Commission (“Commission”) for the Town of Warrenton under the authority of Chapter 160D of the North Carolina General Statutes. N.C.G.S §160D-303

(B) The Commission’s jurisdiction for its activities shall coincide with the Town’s Zoning Jurisdiction as delineated and shown on the official zoning map for the Town of Warrenton. (Ord. 151.040, et seq.)

§153.03 Commission Composition; Terms of Office; Attendance; Officers; Meetings; Establishment of Rules; Directive to Survey

(A) Composition: The Commission shall consist of seven (7) members. All the members shall reside within the territorial jurisdiction of the town. Members of the Commission shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields. Two members of the Commission shall be recommended by Preservation Warrenton, two members of the Commission shall be recommended by the Jacob Holt Foundation, two members as recommended by the Board of Commissioners from the public and the seventh member of the Commission shall be a member of the Board of Commissioners of the Town of Warrenton (herein referred to as “BOC”), although Commission members recommendations by Preservation Warrenton and/or the Jacob Holt Foundations as set forth herein need not be members of those organizations. Upon the recommending The BOC shall appoint members.

(B) Terms of Office: Members of the Commission shall serve terms of four years. Terms shall be staggered with the initial term of members being as follows: one (1) member for two (2) years, three (3) members for three (3) years and three (3) members for four (4) years. A member

may be reappointed for consecutive terms. In the event that a member should need replacement, the replacing member shall serve the remainder of the current term and shall be recommended to the BOC from the appropriate organization as set forth above.

(C) Attendance: Any member of the Commission who misses more than three consecutive regular meetings shall be replaced or reappointed by the BOC pursuant to this ordinance. Absence due to sickness, death in the family or other emergencies of like nature shall be recognized as approved absences and shall not affect the member's status on the Commission, except that in the event of a long illness or any other such cause for prolonged absence, the member shall be replaced.

(D) Officers: The Historic Preservation Commission shall elect from among its members a chairman, vice-chairman and treasurer. Officers shall be elected annually and may be re-elected. A staff member of the Town of Warrenton may be appointed to serve as a secretary or an administrative advisor for the Commission. The Commission may appoint advisory bodies and committees as appropriate.

(E) Meetings: The Commission shall hold at least one regular meeting each month, except when it has no business pending. Special meetings may be called in a manner determined by the Commission and its rules and procedures. All meetings shall be subject to the North Carolina Open Meeting laws and a public record shall be kept of the Commission's resolutions, proceedings, and actions.

(F) Rules and Procedures: The Historic Preservation Commission shall adopt rules of procedure for the conduct of its business in keeping with the provisions of this Ordinance. The rules and procedures shall at least provide for the selection and duties of the officers of the Commission, the time and place of its regular meetings and the calling of special meetings, and the procedures for the conduct of its meetings and public hearings.

Upon its first formal meeting and prior to performing any duties under this ordinance or under Chapter 160D-303 of the North Carolina General Statutes, the Commission shall adopt rules of procedure ("Rules and Procedure") for the conduct of its business. Said rules and procedures shall be submitted to the BOC for approval. The Commission shall prepare and submit an annual report in April of each year to the BOC. Such report shall include a comprehensive and detailed review of the activities, problems and actions of the Commission as well as any budget requests or recommendations which need to be described to maintain the Town's designation as a Certified Local Government (CLG) as required by the State Historic Preservation Officer. The Commission shall keep as public record an accurate account of its meeting attendance and adopted resolutions, findings, and recommendations.

The Commission shall perform the duties of both a separate historic districts commission and a separate historic properties commission as required and shall conform their actions to this ordinance and the statutory directive when acting in either capacity.

§153.04 Powers, Duties and Responsibilities of the Commission

Pursuant to Chapter 160D-942 of the North Carolina General Statutes and this ordinance, the Commission shall have the following powers, duties and responsibilities:

(A) Review the inventory of properties of historical, architectural, archaeological, and/or cultural significance as designated in the 1976 survey of properties for the Town of Warrenton.

(B) Recommend to the BOC additional districts or areas to be designated in the ordinance as “Historic Districts” within the Town of Warrenton and its extraterritorial zoning jurisdiction.

(C) Recommend to the BOC that designation of any district or area as a historic district or part thereof be revoked or removed for just cause.

(D) Recommend to the BOC individual structures, buildings, sites, areas or objects to be designated by ordinance as “historic properties.”

(E) Recommend to BOC that designation of any building, structure, site, area or object as a historic property be revoked or removed.

(F) Conduct an educational program with respect to historic properties and districts within its jurisdiction.

(G) Publish information about, or otherwise inform the owners of property within the district or of designated historic properties, of any matters pertinent to its duties, organization, procedures, responsibilities, functions or requirements.

(H) Cooperate with the State, Federal and local governments in pursuance of the purposes of this ordinance. The Commission when authorized by the BOC may contract with the State or the United States of America, or any agency of either or with any other organization provided the terms are not inconsistent with State or Federal law, for services or funds.

(I) Recommend to the BOC and the State of North Carolina structures, sites, objects or districts worthy of national, state or local recognition.

(J) Communicate with other boards or commissions or agencies of the Town of Warrenton or other governmental units to offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest.

(K) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the Commission may enter any private building or structure without the express consent of the owner or occupant thereof.

(L) Prepare and recommend the official adoption of a preservation element as part of the Town of Warrenton's comprehensive plan.

(M) Consider and act upon applications for Certificates of Appropriateness in accordance with the Rules of Procedure and applicable Zoning Ordinance of the Town of Warrenton as set forth in Section 153 et al.

(N) Act as, establish or designate a group, body or committee to give advice to property owners concerning the treatment of the historical and visual characteristics of their properties, such as fenestration, architectural, and landscape features.

(O) Attend and present its recommendations at public hearings on applications for Certificates of Appropriateness where the BOC deems that such a hearing is necessary.

(P) Recommend guidelines to be established under which the Town Administrator or his/her designee may approve applications for Certificates of Appropriateness for minor modifications of historic properties or building structures or sites in a historic district on behalf of the Commission, provided no application shall be denied by the Town Administrator without first being considered by the Commission.

(Q) Undertake programs of information, research, or analysis relating to any matters under its purview.

(R) Report violations of this ordinance, or related ordinances such as Zoning Ordinance and building code, to the County Building Inspector.

(S) Negotiate at any time with the owner of a building, structure, site, area, or object for its preservation when such an action is reasonably necessary or appropriate.

(T) Take steps during the period of postponement of demolition of any historic property to ascertain what the BOC can or may do to preserve such properties, including consultation with private civic groups, interested private citizens and other public boards or agencies and including investigation of potential acquisition by the Town of Warrenton when the preservation of a given historic property is clearly in the interest of the general welfare of the community and such property is of certain historic, architectural and archaeological significance.

(U) Assist Town staff in obtaining the services of private consultants to aid in carrying out programs of research or analysis when requested.

(V) Recommend to the BOC changes to this or any other ordinance and propose new ordinances or laws relating to historic properties and historic districts or relating to a total program for the protection and/or development of the historic resources of the Town of Warrenton and its environs.

(W) Exercise such other powers and perform such other duties as are required elsewhere by this ordinance, the General Statutes of North Carolina or by the Town of Warrenton.

SECTIONS 153.1 through 153.4 ADOPTED BY THE WARRENTON BOARD OF COMMISSIONERS ENACTED AUGUST 13, 2007.

§153.05 Part 1: Designation of Historic District

(A) The Warrenton Historic District Commission has conducted an investigation and submitted a report describing the significance of the buildings, structures, features, sites or surroundings to be included in the Warrenton Historic 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, has made an analysis of and recommendations concerning such report and description of proposed boundaries.

(C) The Warrenton Historic District shall be comprised of the 1973 National Registry District.

(D) The Town of Warrenton Historic District map and its building inventory shall be available for public inspection at the Town Hall during regular business hours.

Part 2: Designation of Landmark

Upon complying with N.C.N.C.G.S. §160D-945, the Town Board may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. The Historic District Commission shall make recommendations for such designation in accordance with the rules of the Commission and this chapter.

No property shall be recommended for designation as a historic landmark unless it is deemed and found by the Historic District 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.

The ordinance shall include a description of 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 board deems necessary. For each building, structure, site, area, or object so designated as a historic landmark, the ordinance shall require that the waiting period set forth in this Part be observed prior to its demolition. For each designated landmark, the ordinance shall also provide for a suitable sign on the property indicating that the

property has been so designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right of way.

As a guide for the identification and evaluation of landmarks, the Historic District Commission shall undertake, at the earliest possible time and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistoric, and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Office of Archives and History. No ordinance designating a historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the Historic District Commission or the Town Board, until all of the following procedural steps in compliance with N.C.G.S §160D303 have been taken.

Upon adoption of the ordinance, the owners and occupants of each designated landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the preservation commission in the office of the register of deeds of the county in which the landmark or landmarks are located. Each designated landmark shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the register of deeds office, and the preservation commission shall pay a reasonable fee for filing and indexing. In the case of any landmark property lying within the zoning jurisdiction of a city, a second copy of the ordinance and all amendments thereto shall be kept on file in the office of the city or town clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the city or county building inspector. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the county or city for such period as the designation remains in effect.

Upon the adoption of the landmarks ordinance or any amendment thereto, it shall be the duty of the Historic District Commission to give notice thereof to the tax supervisor of Warren County. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

§153.07 RESERVED

§153.08 RESERVED

§153.09 Certificate of Appropriateness required

(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), nor above ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on such landmark or within such district until after an application for a certificate of appropriateness (herein and after "certificate") as to exterior features has been submitted to and approved by the preservation commission. The Town requires a certificate to be issued by the Historic 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 Part.

(B) A certificate of appropriateness shall be required whether or not a building or other permit is required.

(C) For purposes of this ordinance, "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.

(D) Except as provided in (e) below, the Historic 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.

(E) Notwithstanding subsection (a) of this section, jurisdiction of the Historic 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 Warren County Registry of Deeds and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.

(F) Prior to any action to enforce a landmark or historic district ordinance, the Historic Commission shall (i) prepare and adopt rules of procedure, and (ii) prepare and adopt principles and guidelines not inconsistent with this Part for new construction, alterations, additions, moving and demolition.

(G) Prior to issuance or denial of a certificate of appropriateness the Historic Commission shall take such steps as may be reasonably required in the ordinance and rules of procedure to

inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard. In cases where the commission deems it necessary, it may hold a public hearing concerning the application. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, Chapter 143, Article 33C.

(H) All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date the application for a certificate of appropriateness is filed, as defined by the ordinance or the commission's rules of procedure. As part of its review procedure, the Historic Commission may view the premises and seek the advice of the Division of Archives and History or such other expert advice as it may deem necessary under the circumstances.

(I) An appeal may be taken to the Board of Adjustment from the Historic Commission's action in granting or denying any certificate, which appeals (i) may be taken by any aggrieved party, (ii) shall be taken within times prescribed (30 Days), and (iii) shall be in the nature of *certiorari*.

(J) Any appeal from the Board of Adjustment's decision in any such case shall be heard by the Superior Court of Warren County.

(K) All of the provisions of this Part are hereby made applicable to construction, alteration, moving and demolition by the State of North Carolina, its political subdivisions, agencies and instrumentalities, provided however they shall not apply to interiors of buildings or structures owned by the State of North Carolina.

(L) The State and its agencies shall have a right of appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under N.C.G.S. §121-12(a) from any decision of the Warrenton Historic District commission. The commission shall render its decision within 30 days from the date that the notice of appeal by the State is received by it. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principles and guidelines used in reviewing applications of the State for certificates of appropriateness. The decision of the commission shall be final and binding upon both the State and the preservation commission.

§153.10 Conflicts with other laws

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

established under this Part, such other statute, charter provision, ordinance or regulation shall govern. (1989, c. 706, s. 2.)

§153.11 Remedies

In case any building, structure, site, area or object designated as a historic landmark or located within a historic district designated pursuant to this Part is about to be demolished whether as the result of the deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the ordinance or other provisions of this Part, the city or county, the historic preservation commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area or object. Such remedies shall be in addition to any others authorized by this Chapter for violation of a municipal ordinance. (1989, c. 706, s. 2) SEE N.C.N.C.G.S. §160D950

§153.12 Appropriations

A city or county governing board is authorized to make appropriations to a historic preservation commission established pursuant to this Part in any amount that it may determine necessary for the expenses of the operation of the commission, and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas or objects designated as historic landmarks or within designated historic districts, or of land on which such buildings or structures are located, or to which they may be removed. (1989, c. 706, s. 2) SEE N.C.N.C.G.S. §160D-943

§153.12 Certain Changes not prohibited

Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district or of a landmark which does not involve a change in design, material, or appearance thereof nor to prevent the construction, reconstruction, alteration, restoration, moving or demolition of any such feature which the building inspector shall certify is required by the public safety because of an unsafe or dangerous condition. SEE N.C.N.C.G.S. §160D-948

§153.13 Delay in demolition of landmarks and buildings within historic District.

(A) An application for a certificate of appropriateness authorizing the relocation, demolition or destruction of a designated landmark or a building, structure or site within the district may not be denied except as provided below in subsection (C). However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the Historic District Commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the preservation commission finds that a building or site within a district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition, or removal. If the Historic District Commission has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the Town Board, the demolition or destruction of any building, site, or structure located on the property of the proposed landmark or in the proposed district may be delayed by the commission or planning board for a period of up to 180 days or until the local governing board takes final action on the designation, whichever occurs first. SEE N.C.N.C.G.S. §160D-949

(B) The Town Board or the Historic District Commission may prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.

(C) An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places shall be denied except where the commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

§153.14-19 RESERVED

§153.90 Civil Remedies

In case any building, structure, site, area or object designated as a historic landmark or located within a historic district designated pursuant to this ordinance is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the ordinance, the Town or County, the Historic District Commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area or object. Such remedies shall be in addition to any others authorized by the General Statutes for violation of a municipal ordinance.

§153.91 Other Remedies and penalties of enforcement.

(A) Permit denial: An application for a Town permit or renewal thereof hereunder may be denied by the Town manager or his designee if the prospective Town permittee fails to comply with any of the requirements of sections of the Historic District ordinance, above or if a material violation exists of any provision of this article.

(B) Permit revocation: The Town permit shall be revoked by the Town manager or his designee for any material violation of this article or for false representations made in securing a permit hereunder. The Town manager or his designee may revoke the Town permit by notifying the Town permittee holder in writing and stating the reason for revocation. any Town permittee whose permit is denied or revoked may appeal said denial or revocation to the full board of commissioners.

(C) Civil penalty: Violation of this article subjects a violator to a civil penalty in the amount of \$100.00. The Town manager or his designee may impose a civil penalty by giving the violator a written citation either in person or by registered mail, return receipt requested. The citation shall describe the nature of the violation, specify the amount of the civil penalty being imposed, and inform the violator to pay the civil penalty or correct the violation or both within the time limit. Any order to correct a violation shall specify a reasonable time period in which the violation may be brought into compliance (the "compliance period") and no additional penalties shall be assessed until the compliance period has expired. The Town may institute a civil action in the nature of a debt collection in a court of competent jurisdiction to recover any civil penalty assessed hereunder.

(D) Each violation and each day that a violation continues after the expiration of the compliance period shall be considered a separate offense for the purposes of the civil penalty specified in this section.

(E) *Injunction and abatement order:* The Town manager or his designee may institute an action in a court of competent jurisdiction for mandatory or prohibitory injunction and order of abatement commanding the violator to correct or cease the violation of this article.

(F) *Other equitable relief:* In addition to the above remedies and penalties, the Town may institute any other appropriate equitable action or proceeding in a court of competent jurisdiction to prevent, correct or abate a violation of this chapter.

(G) *Attorney fees:* If it is necessary to institute a civil or equitable action under this section, attorney's fees incurred by the Town shall be taxed to the defendant as an additional civil penalty hereunder if the Town is the prevailing party.

(H) *Primacy of state and federal law:* Nothing herein shall be read to allow the Town to impose civil penalties or initiate a civil action for the violation of a federal or state law, rule, regulation.