

Please check with the Union County Historic Preservation Commission for any repeals or amendments to this ordinance.

The ordinance begins on the next page.

NORTH CAROLINA DIVISION OF ARCHIVES AND HISTORY
STATE HISTORIC PRESERVATION OFFICE

**LOCAL DESIGNATION IN NORTH CAROLINA:
HISTORIC DISTRICTS AND LANDMARKS AND THE HISTORIC
PRESERVATION COMMISSION**

Local governments in North Carolina--counties and municipalities--can choose to take advantage of state enabling legislation (General Statutes 160A-400.1 through 160A-400.14) that allows them to create historic preservation commissions and to designate local historic districts and landmarks.

In the statute, the General Assembly sets forth its finding that, "The historical heritage of our State is one of our most valued and important assets. 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."

What Local Designation IS and IS NOT: Local designation is conferred by a local governing board following a recommendation by its preservation commission. Commissions only exist where they have been explicitly created by the county or city, and only commissions created pursuant to state law can exercise design review over properties designated by the local governing board. However, commissions around the state are known by a few different names: historic resources and preservation commissions work with both districts and landmarks while district commissions work solely with districts, and landmark commissions work solely with landmarks.

Local designation should not be confused with listing in the National Register of Historic Places, which is a federal program administered by the state. Although some properties may carry both types of designation, the National Register and local designation are totally separate programs with different requirements and benefits. Also, local commissions should not be confused with other local historical organizations such as historical societies or museum groups.

The Preservation Commission: When a local government decides to provide for the preservation of the historical, cultural, or archaeological resources within its jurisdiction, it can pass an ordinance to create a historic preservation commission. Members of a preservation commission are selected by the local governing board from the general public. A majority of the members must demonstrate a special interest in history, architecture, archaeology, or related fields.

The Commission's Powers: A commission's primary powers are (1) recommending to the local governing board properties to be designated as historic districts and landmarks and (2) reviewing applications from owners of designated landmarks and structures in historic districts who plan to make changes to their properties. A commission's first charge is to conduct an inventory of the area's historic resources. Its other powers include conducting a public education program and acquiring historic properties.

What is Local Designation?: Landmark designations may apply to individual buildings, structures, sites, areas, or objects which are studied by the commission and judged to have historical, architectural, archaeological, or cultural value. Historic district designation may be either a type of overlay or special use zoning that applies to entire neighborhoods or other areas that include many historic properties. The zoning provides controls on the appearance of existing and proposed buildings.

The Designation Process: The designation process usually begins when a commission identifies a property or an area as a potential landmark or district. The commission studies the site and writes a local designation report which documents the site's significance. The commission normally contacts property owners during this stage to seek their cooperation and to explain the ramifications of local designation. Although seldom done, a landmark may be designated over the objection of its owner; however, owner consent is required for the designation of a privately-owned landmark's interior. Likewise, a district may be designated over the objection of property owners; state law does not provide for the designation of the interiors of properties within districts.

The Department of Cultural Resources, acting through the State Historic Preservation Officer, is given an opportunity to review and comment on the proposed designation. When the commission recommends designation, the commission and the local governing board hold a public hearing to consider the merits of the designation. The final step in the designation process is the passage of an ordinance designating the landmark or district by the local governing board.

The Benefits of Designation: Designation is an honor, indicating the community believes the property or district deserves recognition and protection. Owners of designated landmarks are eligible to apply for an annual 50 percent property tax deferral as long as the property's important historic features are maintained. Recapture penalties may apply if the owner destroys the property or damages its historic value. Unlike landmark designation, local historic district designation has no effect on local property taxes for property owners within the designated district. Historic district zoning can help to stabilize property values by maintaining the neighborhood's character, and it benefits property owners by protecting them from inappropriate changes made by other owners that might destroy the special qualities of the neighborhood.

The Requirements of Designation: Owners of local landmarks and of property in local historic districts are required to obtain certificates of appropriateness from their preservation commission before making significant changes or additions to a property, before beginning new construction, or before demolishing or relocating a property. The commission's review of proposed changes ensures that work on a property in a district or on landmark is appropriate to the special character of the district or landmark. Commissions adopt design guidelines as the criteria to judge what changes are appropriate. Property owners also use the design guidelines to plan possible projects, and to discuss their applications with the commission.

FOR MORE INFORMATION CONTACT The Survey and Planning Branch, State Historic Preservation Office, N.C. Division of Archives and History, 109 East Jones Street, Raleigh, NC 27601-2807.

Historic structures and local designation: Preservation Planner, Survey and Planning Branch, 919/733-6545.

Commissions are usually staffed by a member by the city or county planning department. If your county or municipality has a commission, your local planning department will be another source of information.

National Register of Historic Places: Survey and Planning Branch, 919/733-6545.

See also NATIONAL REGISTER FACT SHEETS:

1. "WHAT IS THE NATIONAL REGISTER OF HISTORIC PLACES?"
2. "NATIONAL REGISTER CRITERIA FOR EVALUATION."
3. "HOW HISTORIC PROPERTIES ARE LISTED IN THE NATIONAL REGISTER OF HISTORIC PLACES."
4. "THE NATIONAL REGISTER OF HISTORIC PLACES IN NORTH CAROLINA: FACTS AND FIGURES."

"A COMPARISON OF THE NATIONAL REGISTER OF HISTORIC PLACES WITH LOCAL HISTORIC LANDMARK AND DISTRICT DESIGNATIONS."

3

ORDINANCE CREATING UNION COUNTY

HISTORIC PRESERVATION COMMISSION

1.0 Purpose

The historical heritage of Union County is one of its most valued and important assets. Conservation of historic districts and landmarks will stabilize and increase the value in their areas and strengthen the overall economy of the County and State. By means of listing, regulation and acquisition of historic districts and landmarks Union County, Monroe, Indian Trail, Marshville, Stallings, Waxhaw, Weddington, and Wingate seek within their respective zoning jurisdictions:

- (a) To safeguard its heritage 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 County and State as a whole.

2.0 Historic Preservation Commission

2.1 Creation

There is hereby established by authority of Chapter 160A, Article 19, Part 3C of the North Carolina General Statutes, the Union County Joint Historic Preservation Commission, hereafter referred to as the Historic Preservation Commission or Commission, to consist of thirteen (13) members with four (4) appointed by the Union County Commissioners, three (3) appointed by the Monroe City Council, and one (1) appointed by the Town Councils of each of Indian Trail, Marshville, Stallings, Waxhaw, Weddington, and Wingate.

The Historic Preservation Commission members shall serve without monetary compensation. In establishing the Historic Preservation Commission and making appointments to it, the above-named Board and Councils may seek the advise of such State or local historical agencies, societies, or organizations as it may deem necessary.

2.2 Joint Ordinance

Pursuant to the provisions of G.S. 160A-400.7, Union County, the City of Monroe, and the Towns of Indian Trail, Marshville, Stallings, Waxhaw, Weddington, and Wingate do hereby adopt this ordinance as a joint ordinance. It is the intent of this ordinance that Union County and each city or town subscribing to this ordinance shall have complete control of all historic districts or landmarks located within its incorporated municipal limits, at the present and in the future, except to the extent that any functions are specifically delegated to the Historic Preservation Commission. Any references in this ordinance to all of the subscribing parties shall be construed to be in the disjunctive rather than the conjunctive, it not being the intent of this ordinance that any governmental entity have any authority beyond its municipal limits. At the present time, the City of Monroe and the Towns of Stallings, Waxhaw, and Weddington exercise zoning jurisdiction independent of Union County. The Towns of Indian Trail, Marshville, and Wingate do not exercise independent zoning jurisdiction, with all zoning matters within those towns being administered by Union County. To the extent that matters within those towns being administered by Union County. To the extent that this ordinance requires acts to be performed incident to a zoning ordinance, Union County shall perform those functions on behalf of Indian Trail, Marshville, and Wingate, until such time as those towns shall adopt their own zoning ordinances. It is the intent of this ordinance that upon the adoption of zoning ordinances by Indian Trail, Marshville, and Wingate that those towns would assume full authority as to all acts required under this ordinance.

To the extent that any prior ordinances adopted by any governmental entity is inconsistent with this ordinance, then such prior ordinances are hereby repealed.

2.3 Representation

All members of the Historic Preservation Commission shall be residents of Union County and each shall reside within the jurisdiction of the Board or Council appointing them representative. A majority of the members shall have demonstrated special interest, experience or education in history, architecture, archaeology, or related fields.

2.4 Tenure

Members of the Historic Preservation Commission shall serve overlapping terms of four (4) years. Initially, two (2) appointees by the County, and one (1) appointee each from Monroe, Indian Trail, Marshville, Stallings shall be for two (2) years. Thereafter, all appointments shall be for a term of four (4) years. A member may be reappointed for a second consecutive term, but after two (2) consecutive terms a member shall be ineligible for reappointment until one (1) calendar year has elapsed from the date of the termination of his or her second term. Appointments to any vacancy shall be for the remainder of the term of the vacant position for which the appointment is made. For purposes of reappointment to the Historic Preservation Commission, an initial two year term, or serving the balance of an unexpired term of two years or less shall not be considered to be one of the two (2) consecutive terms, and such person would be eligible to serve two consecutive full terms in addition to the partial term.

2.5 Attendance of Meetings

Any member of the Historic Preservation Commission who misses more than three (3) consecutive regular meetings or one-half (1/2) the regular meetings in a calendar year without excuse granted by the Historic Preservation Commission shall lose his or her status as a member of the Historic Preservation Commission and shall be replaced or reappointed by the appropriate governing Board or Council to Sections 2.1 and 2.3 of this ordinance.

2.6 Meetings

The Historic Preservation Commission shall hold meetings regularly at least once each quarter, and more often as it shall determine and require. All meetings shall be held in accordance with the North Carolina Open Meetings Law, G.S. Chapter 143, Article 33C. Reasonable notice of the time and place thereof shall be given to the public.

2.7 Rules of Procedure

The Historic Preservation Commission shall adopt rules of procedure for the conduct of its business, and an annual written report shall be prepared and submitted to the Board of Commissioners, the Monroe City Council, and the Town Councils of Indian Trail, Marshville, Stallings, Waxhaw, Weddington, and Wingate. Such report shall include a comprehensive and detailed review of the activities, problems, and actions of the Historic Preservation Commission as well as any budget requests or recommendations. The Historic Preservation Commission shall keep a record of its members' attendance, and of its resolutions, findings, and recommendations, which record shall be a public record.

2.8 Quorum and Vote Required for Recommendation

Seven (7) members of the Historic Preservation Commission shall constitute a quorum. The concurrence of at least a majority of those members present will be required before any recommendation or action is made on any matter considered.

amended

2.9 Private Interest of Members

No member of the Historic Preservation Commission may discuss, advocate, or vote on any matter in which he has a separate, private, or monetary interest, either direct or indirect, and no member may discuss before a governing Board or Council any matter which has been, is, or will be considered by the Historic Preservation Commission on which he serves, and in which he has a separate, private or monetary interest, either direct or indirect. Any member who violated this provision may be subject to removal from the Historic Preservation Commission.

2.10 Commission Powers

The Historic Preservation Commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this ordinance:

- (a) Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance;
- (b) Recommend to the Union County Board of Commissioners, the Monroe City Councils, and the Town Councils of Indian Trail, Marshville, Stallings, Waxhaw, Weddington, and Wingate, areas to be designated by ordinance as "Historic Districts"; and individual structures, buildings, sites, areas or objects to be designated by ordinance as "Landmarks";
- (c) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;
- (d) Restore, preserve, and operate historic properties;
- (e) Recommend to the Board or Council that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause;
- (f) Conduct an educational program with respect to historic properties and districts within its jurisdiction;
- (g) Cooperate with state, federal, and local governments in pursuance of the purposes of this ordinance. The Historic Preservation Commission when authorized by the local governing Board and Councils 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;
- (h) 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 Historic Preservation Commission may enter any private building or structure without the express consent of the owner or occupant thereof;
- (i) Prepare and recommend the official adoption of a preservation element as part of the comprehensive plan of Union County, the City of Monroe, and the Towns of Indian Trail, Marshville, Stallings, Waxhaw, Weddington, and Wingate.
- (j) Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, pursuant to this ordinance;
- (k) Negotiate at any time with the owner of a building, structure, site area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.

- (l) Accept funds granted to the Historic Preservation Commission for preservation purposes from private individuals and organizations.
- (m) Organize itself and conduct its business.
- (n) Any other powers as allowed by law.
- (o) Report violations of this ordinance, or other ordinance affecting historic landmarks and properties within historic districts, to the local official responsible for enforcing the ordinance.
- (p) Act as, establish, or designate a group, body, or committee to give advice to owners of historic landmarks or property within a historic district concerning the treatment of the historical and visual characteristics of their property, such as color schemes, gardens and landscape features, minor decorative elements, and for the informal review of major additions and new construction.
- (q) Publish information, or otherwise inform the public about any matters pertinent to its purview, duties, organization, procedures, responsibilities, functions, or requirements.
- (r) Communicate with other boards or commissions in the County or with agencies of the County or other governmental units to offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest.
- (s) Take steps, during the period of postponement of demolition or alteration of any historic landmark or property within a historic district, to ascertain what the local governing body can or may do to preserve such property, including consultation with private civic groups, interested private citizens, and other public boards or agencies, and including investigation of potential acquisition by the local governing body 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 and architectural significance.
- (t) Propose to the local governing body changes to this or any other ordinance, and propose new ordinances or laws relating to historic landmarks and districts or relating to a total program for the protection and/or development of the historic resources of Union County, the municipalities therein, and their environs.

3.0 Designation of Historic Districts

3.1 Adoption of an Ordinance of Designation of an Historic District

Upon compliance with the procedures set out in Section 3.3 of this ordinance, the Union County Board of Commissioners, the Monroe City Council, or the Indian Trail, Marshville, Stallings, Waxhaw, Weddington, or Wingate Town Councils may as part of a zoning or other ordinance enacted or amended pursuant to this ordinance designate and from time to time amend one or more historic districts within the area subject to the ordinance. Such ordinance may treat historic districts either as a separate use district classification or as districts which overlay other zoning districts. Where historic districts are designated as separate use districts, the zoning ordinance may include as uses by right or as conditional or special uses those uses found by the Historic Preservation Commission to have existed during the period sought to be restored or preserved, or to be compatible with the restoration or preservation of the district.

3.2 Definition of Character of an Historic District

Historic Districts established pursuant to this ordinance shall consist of areas which are deemed and found by the Historic Preservation Commission to be of special significance in terms of their history, prehistory architecture, and/or culture, and to possess integrity of design, setting, materials, feeling and association.

3.3 Required Procedures

No historic district or districts shall be designated until:

- (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 recommendation concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the governing board within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the governing board of any responsibility for awaiting such analysis, and said board may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

The governing board may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendation prior to taking action to amend the zoning ordinance. 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 subdivision (a) of this section shall be prepared by the commission and shall be referred to the local planning agency for its review and comment according to procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the Department of Cultural Resources in accordance with the provisions of subdivision (b) of this section.

On receipt of these reports and recommendations the governing board may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning ordinance provisions.

3.4 Inventory

The Commission shall use an inventory of buildings, structures, sites, areas, or objects of historical, prehistorical, architectural, and archaeological significance in the county as a guide for the identification, assessment, and designation of historic districts. The Commission shall update the inventory from time to time.

3.5 Review by Other Groups

The local governing body may also, in its discretion, refer the designation report and proposed boundaries to any local preservation commission or other interested body for its recommendations prior to taking action to amend the zoning ordinance.

3.6 Revisions to Districts

With respect to any changes in the boundaries of an adopted historic district subsequent to its initial establishment, the requirements and procedures contained in Section 3.0 shall apply.

4.0 Designation of Landmarks

4.1 Adoption of an Ordinance of Designation of Landmarks

Upon complying with the landmark designation procedures as set forth in this ordinance the Union County Board of Commissioners, the Monroe City Council, or the Indian Trail, Marshville, Stallings, Waxhaw, Weddington, or Wingate Town Councils 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, prehistorical, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

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 prehistorical value, including the land areas 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 Part 3C of the General Statutes be observed prior to its demolition. For each designated landmark, the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If an owner objects, the sign shall be placed on a nearby public right-of-way.

4.2 Inventory of Landmarks

As a guide for the identification and evaluation of landmarks, the Historic Preservation Commission shall undertake at the earliest possible time and consistent with the resources available to it an inventory of properties of historical, architectural, prehistorical and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Division of Archives and History.

4.3 Required Procedures

No ordinance designating a historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the Historic Preservation Commission or the Union County Board of Commissioners, the Monroe City Council, or the Indian Trail, Marshville, Stallings, Waxhaw, Weddington, or Wingate Town Councils until all of the following procedural steps have been taken:

- (a) The Historic Preservation Commission shall prepare and adopt rules of procedure and principles and guidelines for altering, restoring, moving, or demolishing properties designated as landmarks.
- (b) The Historic Preservation Commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. The investigation and report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.
- (c) The Department of Cultural Resources, acting through the State Historic Preservation Officer, shall either upon request of the department or at the initiative of the Historic Preservation Commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. Comments shall be provided in writing within 30 days following receipt by the Department of the investigation and report. The Union County Board of Commissioners, the Monroe City Council, or the Indian Trail, Marshville, Stallings, Waxhaw, Weddington, or Wingate Town Councils shall be relieved of any responsibility to consider Department comments if such comments are not received within 30 days.
- (d) The owner of the property proposed to be designated as a Landmark shall have filed an application with the Historic Preservation Commission requesting that the property be designated as a landmark.
- (e) The Historic Preservation Commission and the local Board or Council shall hold a joint public hearing or separate public hearings on the proposed ordinance. Notice of the time, place, and purpose of the public hearing shall be mailed to all adjoining property owners (including the owners of properties located across any street or road from the property proposed to be a Landmark) at least two (2) weeks prior to the hearing, by first class mail. Notice of the public

hearing shall be published in a newspaper having general circulation in the area once a week for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing. In computing such time, the date of publication is not to be included, but the date of the hearing shall be included.

- (f) Following the public hearing, the local Board or Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
- (g) 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 Historic Preservation Commission in the office of the Register of Deeds for Union County. Each designated landmark shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds office. The Historic Preservation Commission shall pay a reasonable fee for filing and indexing. In case of any property lying in Union County, a second copy of the ordinance and all amendments thereto shall be kept on file in the office of the Union County Clerk and shall be available for public inspection at any reasonable time. In case of any property lying within the cities or municipalities of Monroe, Indian Trail, Marshville, Stallings, Waxhaw, Weddington, or Wingate, a second copy of the ordinance and each amendment 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 Union County Building Inspector. The fact that a building, structure, site, area or building has been designated a landmark shall be clearly indicated on all tax maps maintained by Union County for such time as the designation remains in effect.
- (h) Upon the adoption of the landmarks ordinance or any amendment thereto, it shall be the duty of the Historic Preservation Commission to give notice thereof to the tax supervisor of Union 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.
- (i) Review by the Department of Cultural Resources
A report accepted by the Commission shall be submitted to the North Carolina Department of Cultural Resources, Division of Archives and History or its successor agency, for comments pursuant to G.S. 160A-400.6, as amended from time to time. The Department of Cultural Resources or its successor agency, acting through the State Historic Preservation Officer, shall, either upon request of the Department or at the initiative of the Commission, be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this ordinance.
- (j) Consideration of the Report
Once the designation of the report has been prepared, either by the Commission or by the owner, and is deemed by the Commission staff to meet the provisions of section 4.0, the Commission shall consider the report. The Commission may accept it, amend it, reject it, or recommend further study.

Prior to final action on a designation report, the Commission shall indicate the extent to which the landmark meets the criteria for designation in Section 4.0.

The Commission should consider any comments received in writing from the Department of Cultural Resources or its successor agency. If the Department does not submit its written comments or recommendation in connection with any proposed designation within thirty (3) days following receipt of the report, the Commission and the local governing body shall be relieved of any responsibility to consider such comments. After the expiration of the thirty (30) day comment period given the Division of Archives and History, the Commission may recommend to the local governing body that the property be designated as a historic landmark.

- (k) **Submission to the Governing Body**
The Commission shall forward its recommendation to the local governing body. The Commission shall submit a copy of the designation report, any written comments received from the Department of Cultural Resources, and, if the recommendation is for approval, a proposed ordinance of designation, to the local governing body.
- (l) **Public Hearing**
When a proposed ordinance of designation is submitted, the Commission and the local 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.

4.4 **Criteria for Designation**

In order for any building, structure, site, area, or object to be designated in an ordinance as a historic landmark, the Commission must find that the property is of special significance in terms of its history, prehistory, architecture, archaeology and/or cultural important, and that it possess integrity of design, setting, workmanship, materials, feeling and/or association.

4.5 **Denied Applications**

If the local governing body denies a designation report, a copy of the minutes of the meeting at which such a decision to deny the report was made, shall be mailed to the owner of the property proposed for designation.

5.0 **Alteration or Demolition of Designated Landmark or Historic District**

5.1 **Certificate of Appropriateness**

From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor any 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 as to exterior features has been submitted to and approved by the commission. Such a certificate is required 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. A certificate of appropriateness shall be required whether or not a building or other permit is required.

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 features. 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 Union county Board of Commissioners, the Monroe City Council, or the Indian Trail, Marshville, Stallings, Waxhaw, Weddington, or Wingate Town Councils include historic signs, color and significant landscape, archaeological, and natural features of the area.

Except as provided in Section 5.2 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 features, outdoor advertising signs or other significant features in the district or of the landmark which would be incongruous with the special character of the landmark or district.

5.2 Limitation on Jurisdiction Over Interior Spaces

Notwithstanding Section 5.1, above, the 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 any 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 Union 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.

5.3 Application for Certificate of Appropriateness

An application for a Certificate of Appropriateness shall be obtained from the Historic Preservation Commission, and when completed, filed with the Historic Preservation Commission.

5.4 Contents of an Application for Certificate of Appropriateness

The application for a Certificate of Appropriateness shall, in accordance with the Historic Preservation Commission's rules of procedure, contain data that is 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 has been submitted.

5.5 Time for Hearing Applications of Certificate of Appropriateness

Applications 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 thirty (30) calendar days before the regularly scheduled meeting of the commission. Otherwise, they shall be deferred until the next meeting or considered at a special called meeting of the commission. Nothing shall prevent the applicant from filing with the application additional relevant information bearing on the application.

5.6 Notification by Historic Preservation Commission of Affected Property Owners

Upon receipt of an application for a Certificate of Appropriateness, the Historic Preservation Commission shall notify the owners of any property likely to be materially affected by the application, in writing at least ten (10) days before the regularly scheduled meeting at which the application is to be heard. Notice to property owners likely to be materially affected by the application shall include all adjoining property owners and the owners of properties located across any roadway from the affected property. Such owners shall be given an opportunity to be heard.

5.7 Public Hearing

When an application for a Certificate of Appropriateness is presented to the Historic Preservation Commission a public hearing shall be held. All meetings of the commission shall be open to the public in accordance with the North Carolina Open Meetings Law, Chapter 143, Article 33C of the General Statutes.

5.8 Action on an Application for a Certificate of Appropriateness

The action on an application for a Certificate of Appropriateness shall be approval, approval with modification, or denial.

Prior to any final action on an application the review criteria in Section 5.9 shall be used to make findings of fact indicating the extent to which the application for a Certificate of Appropriateness is or is not congruous with the historic aspects of the district or landmark.

All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time as defined by the rules of procedure, and not exceeding 60 days from the date the application is filed. As part of its review procedure the commission may view the premises and seek the advice of the Department of Cultural Resources or other such experts as it may deem necessary under the circumstances.

5.9 Review Criteria for Certificates of Appropriateness

It is the intent of these criteria, and the design guidelines, to insure, insofar as possible, that changes to a designated landmark (or structures in a historic district) shall be in harmony with the reasons for designation.

When considering 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 a historic district it is not the intention of these criteria or the guidelines to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of same or to imposed architectural styles from particular historic period. In considering new construction in a historic district the Historic Preservation Commission shall encourage contemporary design which is harmonious with the character of the district.

The following criteria shall be considered, when relevant, along with companion design guidelines and the guidelines of the Secretary of the Interior in reviewing for a Certificate of Appropriateness:

- (a) Lot coverage, defined as the percentage of lot area covered by primary structures;
- (b) Setback, defined as the distance from the lot lines to the building(s);
- (c) Building height;
- (d) Spacing of buildings, defined as the distance between adjacent buildings;
- (e) Building materials;
- (f) Proportion, shape, positioning, location, pattern and sizes of any elements of fenestration;
- (g) Surface textures;
- (h) Roof shapes, form and materials;
- (i) Use of local or regional architectural traditions;
- (j) General form and proportions of buildings and structures, and relationship of any additions to the main structure;
- (k) Expression of architectural detailing, such as lintels, cornices, brick bond, and decorative elements;
- (l) Orientation of the building to the street;
- (m) Scale, determined by the size of the units of construction and architectural details in relation to the human scale and also by the relationship of the building mass to adjoining open space and nearby buildings and structures;
- (n) Proportion of width to height of the total building façade;
- (o) Archaeological sites and resources associated with standing structures;

- (p) Major landscaping efforts that would impact known archaeological sites;
- (q) Appurtenant features and other features such as lighting; and
- (r) Structural condition and soundness;

5.10 Minor Work

A Certificate of Appropriateness application when determined to involve minor work, may be reviewed and approved by an administrative official according to specific review criteria and guidelines. Minor work is defined as those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the property (and/or the district as a whole). Such minor works shall be limited to those listed in the commission's rules of procedure. No application involving a minor work may be denied without the formal action of the Historic Preservation Commission.

5.11 Certain Changes Not Prohibited

Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of a historic landmark or in a historic district which does not involve a change in design, materials, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent a property owner from making any use of his property not prohibited by other statutes, ordinances, or regulations. Nothing in this ordinance shall be construed to prevent the maintenance or in the even of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the commission.

5.12 Appeals

An appeal may be taken to the appropriate Board of Adjustment from the Historic Preservation Commission's action in granting or denying any certificate. Appeals from decisions of the Historic Preservation Commission for properties lying in the towns having no Board of Adjustments shall lie to the Union County Board of Adjustment. The appeals may be taken by any aggrieved party, shall be taken within times prescribed by the commission in the rules of procedure, and shall be in the nature of the certiorari. Any appeal from the appropriate Board of Adjustment's decision in any such case shall be heard by the Superior Court of Union County.

5.13 Submission of New Applications

If a Certificate of Appropriateness is denied, 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.

5.14 Demolition by Neglect

Demolition by neglect of any designate historic landmark or property located within a district shall constitute a violation of this ordinance. The local governing body may take appropriate actions to prevent demolition by neglect, provided such actions include appropriate safeguards to protect the property owner from undue economic hardship.

5.15 Reasons for Commission's Actions to Appear in Minutes

The Commission shall cause to be entered into the minutes of its meeting the reasons for its actions, whether it be approval, approval with modifications, deferral or denial. The minutes shall also

contain a summary of any citation to the evidence, testimony, studies, or other authority upon which it based its decision.

5.16 Time Limits

If the Commission fails to take final action upon any application within ninety (90) days after the complete application is submitted to the Commission staff, the application shall be deemed to be approved as submitted. This time period may be extended upon mutual agreement between the Commission and the applicant.

A Certificate of Appropriateness shall expire six months after the date of issuance, or in the case of a demolition Certificate of Appropriateness, the effective date, if the work authorized by the certificate has not been commenced. If the work has been discontinued for a period of twelve months after commencement, the permit shall immediately expire.

6.0 Delay in Demolition of Landmarks and Buildings Within Historic Districts

6.1 Delay by Historic Preservation Commission

An application for a Certificate of Appropriateness authorizing the demolition or destruction of a designated landmark or a building, structure, or site within the district may not be denied except as provided in Section 6.3 below. However, the effective date of such a certificate may be delayed for a period of up to 180 days from the date of approval. The maximum period of delay authorized this section shall be reduced by the Historic Preservation Commission where 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 such period the Historic Preservation Commission finds that a building or site within the historic 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.

6.2 Delay Pending Designation as District or Landmark

If the Historic Preservation Commission has voted to recommend designation of a property proposed by an owner to be so designated as a landmark or designation of an area as a district, and final designation has not been made by the Union County Board of Commissioners, the Monroe City Council, or the Town Councils of Indian Trail, Marshville, Stallings, Waxhaw, Weddington, or Wingate, 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 Union County Board of Commissioners, the Monroe City Council, or the Town Councils of Indian Trail, Marshville, Stallings, Waxhaw, Weddington, or Wingate for a period of up to 180 days or until the Union County Board of Commissioners, the Monroe City Council, or the Town Councils of Indian Trail, Marshville, Stallings, Waxhaw, Weddington, or Wingate take final action on the designation, whichever occurs first.

6.3 Prevention of Demolition by Neglect

The Union County Board of Commissioners, the Monroe City Council, or the Town Councils of Indian Trail, Marshville, Stallings, Waxhaw, Weddington, or Wingate may enact an ordinance to 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.

6.4 Structures Having Statewide Significance

An application for a Certificate of Appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the

commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

7.0 Records of Commission

7.1 Record of Action Taken By the Commission

The Historic Preservation Commission shall maintain a file containing records of all written notices of proposed actions submitted to the Historic Preservation Commission, reasons underlying all actions, drawings submitted for review and subsequent amendments.

8.0 Receipt and Expenditures of Funds

The Town, City or County governing board is authorized to make appropriations to the Historic Preservation Commission established pursuant to this ordinance in any amount that it may determine necessary for the expenses of the operation of the Historic Preservation 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 properties, or of land on which historic buildings or structures are located, or to which they may be removed.

9.0 Staff and Technical Services

The Historic Preservation Commission may recommend to the local governing board suitable arrangements for the procurement or provision of staff or technical services to the Historic Preservation Commission.

10.0 Ownership of Property

All lands, buildings, structures, sites, areas or objects acquired by funds appropriated by a governing Board or Council shall be acquired in the name of the governing Board or Council. So long as owned by a City, Town or the County, historic properties may be maintained by or under the supervision and control of the City, Town or the County. However, all lands, buildings or structures acquired by the Union County Joint Historic Preservation Commission from funds other than those appropriated by a City, Town or the County, may be acquired and held in the name of the Union County Joint Historic Preservation Commission, the City, Town or the County, or both.

11.0 Ordinance to Apply to Publicly Owned Buildings and Structures

All of the provisions of this ordinance are applicable to the construction, alteration, moving and demolition by the State of North Carolina its Political subdivisions, agencies and instrumentalities, provided however that they shall not apply to interiors of buildings or structures owned by the State of North Carolina. 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 GS 121-12(a) from any decision of the Historic Properties Commission. 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 Historical Commission shall be binding upon both the State and the Historic Preservation Commission.

12.0 Conflict with Other Laws

Whenever any ordinance adopted for the designation of landmarks or districts requires a longer waiting period or imposes higher standards with respect to a designated landmark (or district) than are established under any other statute, charter provision, or regulation, this ordinance shall govern. Whenever the provisions of any other statute, charter provision, or regulation require a longer waiting period or impose higher standards than are established under this ordinance, such other statute, charter provision, ordinance, or regulation shall govern.

13.0 Remedies

Compliance with the terms of the Certificate of Appropriateness shall be enforced by the designated zoning enforcement officer of Union County, or the zoning enforcement officer of the cities and municipalities having in effect zoning ordinances. Enforcement as to landmarks or districts in municipalities not having zoning ordinances shall be by the zoning enforcement officer of Union County. Failure to comply with the Certificate of Appropriateness shall be a violation of the applicable zoning ordinance and is punishable according to established procedures and penalties for such violations. A Certificate of Appropriateness shall expire twelve (12) months after the date of issuance if the work authorized by the certificate has not been commenced. If after commencement the work is discontinued for a period of six (6) months the permit therefor shall immediately expire. No work authorized by any certificate which has expired shall thereafter be performed until a new certificate has been secured.

In case any building, structure, site, area or objects designated an historic property is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled or removed, except in compliance with an ordinance, a city, town or the county, may institute an appropriate action or proceedings to prevent such unlawful demolition, material alteration, remodeling or removal, and may restrain, correct or abate such violation, or to prevent such illegal act or conduct with respect to such historic property.

In case any building, structure, site, area or object designated as a historic landmark (or located within a historic district established) pursuant to this ordinance is about to be demolished whether as result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the ordinance, Union County, the applicable city or municipality may institute any appropriate action or proceeding 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 a building, structure, site, area or object. Such remedies shall be in addition to any others authorized for violation of a county or municipal ordinance.

14.0 Effective Date

This ordinance shall be effective from and after November 3, 1992.

Adopted by the Union County Board of Commissioners on November 2, 1992.

Adopted by the Monroe City Council on August 5, 2002.

Adopted by the Indian Trail Town Council on _____.

Adopted by the Marshville Town Council on August 1992.

Adopted by the Stallings Town Council on _____.

Adopted by the Waxhaw Town Council on October 2005.

Adopted by the Weddington Town Council on _____.

Adopted by the Wingate Town Council on December 21, 1992.