ARTICLE XVII. HISTORIC PRESERVATION

1700 Purpose.

Whereas the historical heritage of the City of Lenoir is a valued and important part of the general welfare; and whereas the conservation and preservation of that heritage, through the documentation and regulation of historic districts or landmarks, or through the acquisition of historic properties, stabilizes and increases property values, and pursuant to North Carolina General Statute (G.S. 160D-940) this ordinance is enacted in order to:

A. Safeguard the heritage of Lenoir by preserving districts and landmarks therein that embody important elements of its culture, history, architectural history, or prehistory; and

B. Promote the use and conservation of such districts and landmarks for the education, pleasure, and enrichment of the residents of the City of Lenoir and of the State as a whole.

1701 Historic Preservation Commission – Certified Local Government

1701.1 Creation and Appointment – There is hereby established a Commission which shall be known as the Lenoir Historic Preservation Commission. Its jurisdiction shall include the City of Lenoir and the extraterritorial jurisdiction (ETJ) area of the city as shown on the official zoning atlas of the city. The established Commission shall assume the role of the previously existing Historic Preservation Commission, comprised solely of Planning Board members.

1701.2 Qualification of Members - At least five members must have demonstrated education, experience, special interest, or a combination thereof, in historic preservation, history, architecture, architectural history, archaeology, cultural anthropology, planning, or related field. All members must reside within the City Limits or Extraterritorial Jurisdiction (ETJ) of Lenoir.

1701.3 Member Terms – All members must:

a. Annually elect a chairman and vice-chairman among its serving members.

b. Be appointed by City Council for a two-year term, or appointed to assume the remainder of a term vacated by a former member.

c. Be reappointed for additional terms at the discretion of City Council.

1701.4 Rules of Procedure

A. The Commission shall adopt rules of procedure necessary to the conduct of its affairs and in keeping with the provisions of this ordinance.

B. Such rules of procedure shall also include as an appendix “The Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings” and the “Historic District Design Standards,” including photographs, illustrations, descriptions and other similar material interpreting the criteria for determining appropriateness.

C. The Commission shall meet at least quarterly. All meetings shall be conducted in accordance with the North Carolina Open Meetings Law, G.S. Chapter 143, Article 33C (NCGS 143-318.9 to 318.18).

D. The Commission shall annually present to the local legislative body a report of its activities, budget, findings, recommendations, and actions, which shall be made available to the public.

1701.5 Powers and Duties - The Commission is hereby empowered to undertake such actions as may be reasonably necessary to the discharge and conduct of its duties and responsibilities as set forth in this ordinance and in the North Carolina General Statutes, including, but not limited to:

A. Organizing itself and conducting its business;

B. Receiving and spending funds appropriated by the Lenoir City Council for operating and performing its duties;

C. Conducting an inventory of properties of historical, archaeological, architectural, and/or cultural interest;

D. Recommending to the Lenoir City Council *that:*

1. individual buildings, structures, sites, areas, or objects within its zoning jurisdiction be designated as "historic landmarks" and that;"

2. areas within its zoning jurisdiction be designated as "historic district."

3. designation of any area as a historic district, or part thereof, or of any building, structure, site, area, or object as a historic landmark, be revoked or removed for cause;

E. Reviewing and acting on proposals for

1. Exterior alteration, relocation, or demolition of designated his landmarks;

2. Exterior alteration, relocation, demolition, or new construction properties within designated historic districts;

F. Negotiating with property owners who propose to demolish or relocate a designated landmark, or a building, structure, site, area, or object within a designated district, in an effort to find a means of preserving such properties, including consulting with private civic groups, interested private citizens, and other public boards or agencies;

G. Instituting action, through the Planning Department enforcement staff, to prevent, restrain, correct, or otherwise abate violations of this ordinance or of ordinances designating historic landmarks or districts;

H. Reviewing and acting on proposals for alterations of interior features of designated historic landmarks, as specified, and for which owner consent was given, in the ordinance establishing designation;

I. Appointing advisory bodies or committees as appropriate;

J. Advising property owners about appropriate treatment(s) for characteristics of historic properties;

K. Proposing to the Lenoir City Council amendments to this or to any other ordinance, and proposing new ordinances or laws relating to historic landmarks and districts or to the protection of the historic resources of the City of Lenoir and its environs.

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

M. Cooperate with the state, federal and local governments in pursuance of the purposes of this section. The City Council, or the Commission when authorized by the City Council, may contract

with the State of North Carolina 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.

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. The group shall act in a strictly advisory capacity to property owners, and shall abstain from offering recommendations outside of advertised meetings of the Commission prior to the Commission's decision on any application(s) for a certificate of appropriateness for proposed work on the property.

O. Take steps during the period of postponement of demolition of any historic property to ascertain what the City Council can or may do to preserve such properties, including consultation with private civic groups, interested private citizens and other public boards or agencies, including investigation of potential acquisition by the city 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.

P. Assist city staff in obtaining the services of private consultants to aid in carrying out programs of research or analysis.

Q. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof, provided that 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.

R. Exercise such other powers and perform such other duties as are required elsewhere by this section, the General Statutes of North Carolina or by the City of Lenoir.

1702 Inventory - The Commission shall use as a guide to identification, assessment, and designation of historic landmarks and districts an inventory of buildings, structures, sites, areas, or objects which are of historic, prehistoric, architectural, archaeological, and/or cultural significance. The Commission shall take steps as necessary to ensure that the inventory reflects information current to within twenty (20) years.

1703 Historic Landmarks

1703.1 Adoption of Ordinance of Designation

A. The Lenoir City Council may adopt and, from time to time, amend or repeal an ordinance designating one or more historic landmarks. The ordinance must include the following information:

1. The name or names of the owner or owners of the property;

2. Description of each property designated by the ordinance, including the address, if applicable, the physical configuration and orientation of the property so designated;

3. Describe those elements of the property which are integral to its historic, architectural, archaeological, and/or cultural significance;

4. Provide for each designated historic landmark a suitable sign or plaque indicating that the landmark has been so designated; and

5. Any other information deemed necessary, within the authority of this ordinance and the general statutes, as determined by the local governing body.

B. The landmark designation process may be initiated by either the Commission or at the request of a property owner. No ordinance to designate any building, structure, site, area, or object shall be adopted or amended until all of the requirements of this ordinance and its subsections have been satisfied.

1703.2 Criteria of Designation - To be designated as a historic landmark, a property, building, site, area, or object shall be found by the Commission to possess special significance in terms of its history, prehistory, architecture, archaeology, and/or cultural importance, and to retain the integrity of its design, setting, workmanship, materials, feeling, and/or association.

1703.3 Procedure for Designation

A. The Commission shall make, or cause to be made, an investigation and designation report that includes:

1. The name of the property to be designated, including both common and historic names if they can be determined;

2. The name(s) and address(es) of the current owner(s);

3. The location of the property for which designation is proposed, including the street address and Caldwell County tax map parcel number or parcel identification number;

4. The dates of original construction and of all later additions or alternations, as applicable;

5. An assessment of the significance of the building or site as prescribed by this ordinance;

6. An architectural or archaeological description of the area of the site or structure, including descriptions of all outbuildings and appurtenant features, for which designation is proposed;

7. A historical discussion of the site or structure within its type, period, and locality;

8. A photograph showing, to the fullest extent possible, the overall disposition of the property; one photograph of each façade or elevation and supplementary photographs as necessary to illustrate architectural details or ornamentation, siting, scale, proportion, and relationship of features or buildings, structures, or objects to each other; and

9. A map showing the location of the property, including all outbuildings and appurtenant features.

B. Pursuant to G.S. 160D-946(3), as amended, the designation report shall be submitted to the North Carolina Department of Cultural Resources, Division of Archives and History, or its successor agency, which, acting through the State Historic Preservation Officer, shall review it and provide written comments and recommendations to the Commission regarding the substance and effect of the proposed designation. Failure of the Department to respond within thirty (30) days following its receipt of the report shall constitute approval of the report by the Department and relieve the City of Lenoir of all responsibility to consider the Department's comments or recommendations concerning the report.

C. At the expiration of the 30-day review period, the Commission shall hold a public hearing to consider the proposed landmark designation, and shall consider the report and any comments or

recommendations from the State Historic Preservation Officer, and shall accept it, amend it, reject it, or defer a decisions until completion of a period of further study, not to exceed 60 days. The Commission shall forward to the Lenoir City Council a copy of the report, copies of written comments received from the Department of Cultural Resources, and a recommendation either to approve or disapprove designation of the property, stating in its recommendation the extent to which the property meets the criteria for designation as set forth in this ordinance. A recommendation for disapproval shall not necessarily prevent any future consideration of a property for designation as a historic landmark.

D. The Lenoir City Council shall hold a public hearing to consider the proposed ordinance. Reasonable notice of the time and place thereof shall be given. Following the public hearing, the Lenoir City Council shall consider the Commission's designation report, its recommendation(s), the Department of Cultural Resources' recommendation(s), and comments made at the public hearing, and shall adopt the ordinance as proposed, adopt the ordinance with amendments, or reject the ordinance.

E. Upon adoption of the ordinance, the Planning Department staff shall, within 30 days of adoption:

1. Send the owner(s) of the landmark(s) written notice of such designation, explaining the substance of the Commission's decision, via certified mail with a return receipt requested;

2. File one copy of the ordinance, and any subsequent amendments thereto, in the office of the Register of Deeds of Caldwell County, which office shall index each historic landmark according to the name of the owner in the grantee and grantor indexes.

3. File a second copy of the ordinance, and any subsequent amendments thereto, in the office of the City Clerk, where it shall be made available for public inspection at any reasonable time,

4. Provide a third copy to the Caldwell County building inspector.

5. Notify the tax assessor of County name of the landmark designation.

F. In disapproving a designation report, a copy of the minutes of the meeting at which such decision to deny was made shall be mailed to the owner of the property proposed for designation, together with a letter explaining the substance of the City's decision.

(Ord. of 1-19-2021, § 8)

1704 Historic Districts

1704.1 Adoption of Ordinance of Designation - The Lenoir City Council may adopt and, from time to time, amend or repeal an ordinance designating a historic district. The ordinance shall include information that describes the physical area proposed for designation, its boundaries, and general historic, architectural, archaeological, and/or cultural significance. The district designation process may be initiated by either the Commission or at the request of any number of property owners. No ordinance to designate a district shall be adopted or amended until all of the requirements of this ordinance and its subsections have been satisfied.

1704.2 Criteria for Designation - To be designated as a historic district, an area shall be found by the Commission to possess special significance in terms of its history, prehistory, architecture, archaeology, and/or cultural importance, and to retain the integrity of its design, setting, workmanship, materials, feeling, and/or association.

1704.3 Procedure for Designation

A. The Commission shall make, or cause to be made, an investigation and designation report which includes:

1. An assessment of the significance of the buildings, sites, structures, features, objects, or environs to be included in a proposed district and a description of its boundaries; and

2. A map clearly indicating the boundaries of the district and the properties, showing their County name tax map parcel numbers, contained therein.

B. A district designation report must be submitted to the North Carolina Department of Cultural Resources, Division of Archives and History, or its successor agency, which, acting through the State Historic Preservation Officer, shall review it and provide written comments and recommendations to the local governing body regarding the substance and effect of the proposed designation. Failure of the Department to respond within 30 days following its receipt of the report shall constitute approval of the report by the Department relieve the City of Lenoir of all responsibility to consider the Department's comments or recommendations concerning the report.

C. At the expiration of the thirty (30) day review period, the Commission shall consider the report and any comments or recommendations from the State Historic Preservation Officer, and shall accept it, amend it, reject it, or defer a decision until completion of a period of further study, not to exceed 60 days. The Commission shall also review the report acting in their capacity as the Planning Board, following the procedure for zoning map amendments in Article XIV of the Lenoir Zoning Ordinance. The Commission shall forward to the Lenoir City Council a copy of the report, copies of written comments received from the Department of Cultural Resources, and a recommendation either to approve or disapprove designation of the district, stating in its recommendation the extent to which the proposed area meets the criteria for designation as set forth in this ordinance. A recommendation for approval shall be accompanied by a proposed ordinance of designation. A recommendation for disapproval shall not necessarily prevent any future consideration of an area for designation as a historic district.

D. Upon receipt of a recommendation and designation report from the Commission, the Lenoir City Council shall proceed in the same manner as it would for a zoning map amendment in Article XIV of the Lenoir Zoning Ordinance.

1704.4 Revisions to Districts - Changes in the boundaries of an adopted district subsequent to its initial establishment shall be effected as allowed by Sections 1703.1 and 1703.2 of this ordinance and as prescribed in Section 1703.3.

1705 Certificates of Appropriateness

1705.1 Certificate of Appropriateness Required

A. From and after the designation of a historic landmark or district, no construction, alteration, reparation, rehabilitation, relocation, or demolition of any building, structure, site, area, or object shall be performed upon such landmark or within such district until a Certificate of Appropriateness (or "Certificate") has been granted by the Historic Preservation Commission. A Certificate shall be required for any and all exterior work, including masonry walls, fences, light fixtures, steps and pavement, any other appurtenant features, any above ground utility structures, and any type of outdoor advertising sign.

B. A Certificate shall be required in order to obtain a building permit, or any other permit granted for the purposes of constructing, altering, moving, or demolishing structures, and shall be required whether or not a building permit or other permit is required. Any building permit or other permit not issued in conformity with this Section shall be invalid.

C. For the purposes of this Article, "exterior features" shall include architectural style, general design, general arrangement, kind and texture of material, size and scale, and type and style of all windows, doors, light fixtures, signs, any other appurtenant features, historic signs, historic advertising, color, landscape, and archaeological or natural features.

D. A Certificate shall be required for specific interior features of architectural, artistic, or historic significance in publicly owned landmarks and in privately owned landmarks for which consent to review has been given in writing by the owner. Such consent shall be filed in the Caldwell County Register of Deeds and indexed according to the name of the property owner in the grantee and grantor indexes and shall bind future owners and/or successors in title. The ordinance establishing historic designation of the property shall specify the interior features subject to review and the specific nature of the Commission's jurisdiction over those features.

E. In approving a Certificate, the Commission may attach reasonable conditions necessary to the proper execution of this ordinance.

F. Commission staff may issue a Certificate for minor works as defined in the Commission's Rules of Procedure. Minor works shall include the ordinary maintenance or repair of any exterior feature of a historic landmark or property located within a historic district, provided such maintenance or repair does not involve a change in design, material, or appearance thereof.

G. No application for a minor works Certificate shall be denied without deliberation by the Commission.

H. Under this section, the Commission shall institute action, through the Lenoir Planning Department, to prevent, restrain, correct, or otherwise abate the construction, reconstruction, alteration, restoration, relocation, or demolition of buildings, structures, appurtenant features, or any other features which would be incongruous with the special character of the landmark or district or violate the provisions of this Section.

1705.2 Review Standards. Prior to the designation of any historic landmark or district, the Commission shall prepare and adopt standards not inconsistent with G.S. Chapter 160D, Article 9, Part 4 for constructing, altering, restoring, rehabilitating, relocating, removing, or demolishing of property designated as historic, which guidelines shall ensure, insofar as possible, that changes in designated landmarks or properties located within designated districts shall be in harmony with the reasons for designation.

1705.3 Certain Changes not Prohibited. Nothing in this ordinance shall be construed to prevent:

A. the ordinary maintenance or repair of any exterior feature of a historic landmark or property located within a historic district, provided such maintenance or repair does not involve a change in design, material, or appearance thereof;

B. the construction, alteration, relocation, or demolition of any such feature, building, or structure when Caldwell County Building Inspector certifies to the Commission that such action is necessary to the public health or safety because of an unsafe or dangerous condition;

C. a property owner from making of his property any use not otherwise prohibited by statute, ordinance, or regulation; or

D. the maintenance of, or, in the event of an emergency, the immediate restoration of any existing above ground utility structure without approval by the Commission.

1705.4 Delay of Demolition

A. Except as provided below, a Certificate authorizing the demolition of a designated historic landmark or property located within a designated historic district may not be denied. However, the Commission may delay the effective date of such a Certificate for a period of up to 365 calendar days from the date of approval. The Commission may reduce the period of delay where it finds that the owner would suffer extreme hardship or be deprived permanently of all beneficial use of such property as a result of the delay. During the delay period, the Commission shall negotiate with the property owner and with any other party in an effort to find a means of preserving the property as provided in Section 1701.4.

B. The Commission may deny an application for a Certificate authorizing the demolition or destruction of any designated landmark, or of any property, building, site, object, area, or structure located within a designated district, which the State Historic Preservation Office has determined to be of Statewide Significance, as defined by the criteria of the National Register of Historic Places, unless the Commission finds that the owner would suffer extreme hardship or be deprived permanently of all beneficial use of the property as a result of the denial.

C. In the event that the Commission has voted to recommend designation of a property as a landmark, or of an area as a district, and such designation has not yet been made by the Lenoir City Council, the demolition of any building, site, object, area, or structure located on the property of the proposed landmark or within the proposed district may be delayed by the Commission up to 180 calendar days or until the Lenoir City Council takes final action on the proposed designation, whichever occurs first. Should the Lenoir City Council approve the designation prior to the expiration of the 180 day delay period, an application for a Certificate of Appropriateness authorizing demolition must then be filed; however, the maximum delay period of 365 days shall be reduced by the number of days elapsed during the 180 day delay while designation was pending.

1705.5 Demolition through Neglect. Failure of an owner to regularly, consistently, and fully maintain a designated landmark or any property located within a designated district shall constitute demolition, through neglect, without a valid Certificate of Appropriateness and a violation of this ordinance. The Commission shall institute action, through the Planning Department code enforcement staff, to prevent, restrain, correct, or otherwise abate such demolition, provided such action includes appropriate safeguards to protect property owners from undue economic hardship.

1705.6 Applications and Required Procedures

A. An application for a Certificate shall be obtained from the Lenoir Planning Department. Applications shall be completed in form and in content and filed with the staff at least 20 business days prior to the next regularly scheduled Commission meeting. Late applications shall be deferred until the following regularly scheduled meeting.

B. The Commission shall have, as detailed in its Rules of Procedure, broad powers to require the submittal, with the application, of pertinent information sufficient to determine an application.

C. Incomplete applications shall not be accepted.

D. Before considering an application for a Certificate, the Commission shall provide notice of the evidentiary hearing as required under Sec. 1310 of this ordinance.

E. When considering an application for a Certificate, the Commission shall hold an evidentiary hearing consistent with the procedures established for all quasi-judicial decisions by Article XII, Division 3 of this ordinance.

F. When considering the application, the Commission shall apply the review standards required by Section 1705.2 and shall, in approving, approving with conditions, disapproving, or deferring an application, make findings of fact, indicating the extent to which the application is or is not in compliance with review criteria, and shall cause these findings of facts to be entered into the minutes of its meetings. The minutes shall also contain a summary of any citation to evidence, testimony, studies, or other authority upon which the Commission based its decision.

G. The Commission shall have ninety (90) calendar days following submittal of a complete application within which to act. Failure by the Commission to take final action within such period shall constitute approval of the application as submitted. This period may be extended by mutual agreement between the Commission and the applicant.

H. A Certificate shall be valid for 180 calendar days from date of issuance, or, in the case of a Certificate for demolition, from the effective date. If the authorized work has not commenced within that period, or has been discontinued for more than 365 calendar days from the date of issuance, such Certificate shall immediately expire and the applicant shall be required to reapply.

I. If the Commission denies a Certificate, a new application affecting the same property may be submitted, provided a substantial change is proposed in the plans.

All decisions of the commission in granting or denying a certificate of appropriateness may be appealed to the Superior Court in the nature of certiorari. Appeals must be filed with the Lenoir City Clerk within 30 days of the receipt of written notice of the decision. To the extent applicable, the provisions of G.S. 160D-1402 apply to appeals in the nature of certiorari to the city council.

J. A Certificate shall be required for designated landmarks or buildings, structures, sites, areas, or objects within designated districts which are owned by the State of North Carolina or any of its agencies, political subdivisions, or instrumentalities, subject to the regulations of this ordinance and in accordance with North Carolina General Statute 160D-947(f).

K. In the case of any building, structure, site, area, or object designated as a historic landmark or of any property located within a designated historic district being threatened with demolition, as the result of willful neglect or otherwise, material alteration, rehabilitation, or removal, except in compliance with this ordinance, the Commission, the local governing body, or any other party aggrieved by such action may institute any appropriate action or proceeding to prevent, restrain, correct, or otherwise abate such violation, or to prevent any illegal act or conduct with respect to such property.

1706 Conflict with Other Laws. Whenever the provisions of this ordinance are in conflict with any other statute, charter provision, ordinance, or regulation of the City of Lenoir, the more restrictive ordinance or regulation shall govern.

(Ord. of 2-19-2019, § 1; Ord. of 1-19-2021, § 8)