

§ 160D-947. Certificate of appropriateness required.

(a) Certificate Required. - 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 the landmark or within the district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the preservation commission. The local government shall require such a certificate to be issued by the commission prior to the issuance of a building permit granted for the purposes of constructing, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Part. A certificate of appropriateness is required whether or not a building or other permit is required.

For purposes of this Part, "exterior features" 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" 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.

Except as provided in subsection (b) of this section, the commission has no jurisdiction over interior arrangement. The commission 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 that would be incongruous with the special character of the landmark or district. In making decisions on certificates of appropriateness, the commission shall apply the rules and standards adopted pursuant to subsection (c) of this section.

(b) Interior Spaces. - Notwithstanding subsection (a) of this section, jurisdiction of the commission over interior spaces is 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. The consent of an owner for interior review binds future owners and/or successors in if the consent has been filed in the office of the register of deeds of the county in which the property is located 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.

(c) Rules and Standards. - Prior to any action to enforce a landmark or historic district regulation, the commission shall (i) prepare and adopt rules of procedure and (ii) prepare and adopt principles and standards not inconsistent with this Part to guide the commission in determining congruity with the special character of the landmark or district for new construction, alterations, additions, moving, and demolition. The landmark or historic district regulation may provide, subject to prior adoption by the preservation commission of detailed standards, for staff review and approval as an administrative decision of applications for a certificate of appropriateness for minor work or activity as defined by the regulation; provided, however, that no application for a certificate of appropriateness may be denied without formal action by the preservation commission. Other than these administrative decisions on minor works, decisions on certificates of appropriateness are quasi-judicial and shall follow the procedures of G.S. 160D-406.

(d) Time for Review. - 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 regulation or the commission's rules of procedure. As part of its review procedure, the 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.

(e) Appeals. -

- (1) Appeals of administrative decisions allowed by regulation may be made to the commission.
- (2) All decisions of the commission in granting or denying a certificate of appropriateness may, if so provided in the regulation, be appealed to the board of adjustment in the nature of certiorari within times prescribed for appeals of administrative decisions in G.S. 160D-405(d). To the extent applicable, the provisions of G.S. 160D-1402 apply to appeals in the nature of certiorari to the board of adjustment.
- (3) Appeals from the board of adjustment may be made pursuant to G.S. 160D-1402.

(4) If the regulation does not provide for an appeal to the board of adjustment, appeals of decisions on certificates of appropriateness may be made to the superior court as provided in G.S. 160D-1402.

(5) Petitions for judicial review shall be taken within times prescribed for appeal of quasi-judicial decisions in G.S. 160D-1405. Appeals in any such case shall be heard by the superior court of the county in which the local government is located.

(f) Public Buildings. - 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 do not apply to interiors of buildings or structures owned by the State of North Carolina. The State and its agencies may appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under G.S. 121-12(a) from any decision of a local preservation commission. The North Carolina Historical 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 North Carolina Historical Commission is final and binding upon both the State and the preservation commission. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 24, 51(a), (b), (d).)

§ 160D-402. Administrative staff.

(a) Authorization. - Local governments may appoint administrators, inspectors, enforcement officers, planners, technicians, and other staff to develop, administer, and enforce development regulations authorized by this Chapter.

(b) Duties. - Duties assigned to staff may include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to this Chapter; determining whether applications for development approvals are complete; receiving and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order adequately to enforce the laws and development regulations under their jurisdiction. A development regulation may require that designated staff members take an oath of office. The local government shall have the authority to enact ordinances, procedures, and fee schedules relating to the administration and the enforcement of this Chapter. The administrative and enforcement provisions related to building permits set forth in Article 11 of this Chapter shall be followed for those permits.

(c) Alternative Staff Arrangements. - A local government may enter into contracts with another city, county, or combination thereof under which the parties agree to create a joint staff for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties may make any necessary appropriations for this purpose.

In lieu of joint staff, a governing board may designate staff from any other city or county to serve as a member of its staff with the approval of the governing board of the other city or county. A staff member, if designated from another city or county under this section, shall, while exercising the duties of the position, be considered an agent of the local government exercising those duties. The governing board of one local government may request the governing board of a second local government to direct one or more of the second local government's staff members to exercise their powers within part or all of the first local government's jurisdiction, and they shall thereupon be empowered to do so until the first local government officially withdraws its request in the manner provided in G.S. 160D-202.

A local government may contract with an individual, company, council of governments, regional planning agency, metropolitan planning organization, or rural planning agency to designate an individual who is not a city or county employee to work under the supervision of the local government to exercise the functions authorized by this section. The local government shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the local government as it does for an individual who is an employee of the local government. The company or individual with whom the local government contracts shall have errors and omissions and other insurance coverage acceptable to the local government.

(d) Financial Support. - The local government may appropriate for the support of the staff any funds that it deems necessary. It shall have power to fix reasonable fees for support, administration, and implementation of programs authorized by this Chapter. All fees collected by a building inspection department for the administration and enforcement of provisions set forth in Article 11 of this Chapter shall be used to support the administration and operations of the building inspection department and for no other purposes. When an inspection, for which the permit holder has paid a fee to the local government, is performed by a marketplace pool Code-enforcement official upon request of the State Fire Marshal under G.S. 143-151.12(9)a., the local government shall promptly return to the permit holder the fee collected by the local government for such inspection. This subsection applies to the following types of inspection: plumbing, electrical systems, general building restrictions and regulations, heating and air-conditioning, and the general construction of buildings. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d); 2023-151, s. 11.84; 2024-49, s. 1.3(a).)