

## 2 DISTRICT STANDARDS

### 2.1 PURPOSE AND INTENT

For the purposes of this ordinance, the various districts have been categorized as either urban districts or rural/suburban districts. In general, standards and provisions for urban districts are designed to create walkable, mixed-use environments whereas the rural/suburban districts are more reflective of the existing, primarily automobile-dependent configuration. In order to implement the intent of this ordinance, there are hereby created several base districts with the designations and general purposes listed under each and the specifically permitted uses, special uses, dimensional standards and permitted building types included.

### 2.2 OFFICIAL ZONING MAP *[Revises Z-2.2-4]*

#### 2.2.1 ZONING MAP

- A. **Zoning Districts:** The boundaries of each zoning district are shown on a map entitled "City of Wilson Official Zoning Map" which is hereby made a portion of this ordinance.
- B. **Overlay Districts:** Certain overlay districts such as the Historic District, Special Flood Hazard Districts, Watershed Protection Districts, etc. are hereby established and incorporated by reference.
- C. **Administration and Maintenance of Zoning Map:** The Official Zoning Map shall be maintained in the Wilson Planning and Development Services Department. The Administrator shall separately maintain the digital files that comprise the map. All map amendments will also be contained within these digital files.

#### 2.2.2 INTERPRETATION OF BOUNDARIES

When uncertainty exists with respect to the boundaries or districts as shown on the Official Zoning Map, the following rules shall apply:

- A. District boundary lines are generally intended to be along or parallel to property lines, lot lines, the center line of street, alleys, railroads, easements, other rights-of-way, and creeks, streams, or other water channels.
- B. In the absence of specified distances on the map, dimensions or distances shall be determined by the scale of the Official Zoning Map.
- C. Where the Zoning Map shows a district boundary dividing a lot, each part of the lot shall conform to the standards established by this ordinance for the land development or overlay district in which that part is located.
- D. When the street or property layout existing on the ground is at variance with that shown on the Official Zoning Map, the Board of Adjustment shall interpret the district boundaries of this ordinance in accordance with Section 14.5.

## 2.8 OVERLAY DISTRICTS

For purposes of managing certain environmentally sensitive or visually important geographic areas, certain overlay districts have been established to impose design, use, or other standards in addition to the requirements of the underlying base district.

### 2.8.1 OVERLAY DISTRICT DESCRIPTIONS

OVERLAY DISTRICT	DESCRIPTION
<b>A. Historic Overlay (H-O)</b>	In order to establish a process in designated historic districts for the review of development applications and the maintenance of historic features in the community, the Historic Overlay District is hereby created.
<b>B. Airport Overlay (A-O)</b> <i>Previous District(s): APD</i>	This district is established to prohibit land uses that are hazardous to the safe operation of aircraft.
<b>C. Required Shopfront (-S)</b>	In order to implement vibrant, pedestrian-friendly areas in Form-based Districts, the Required Shopfront Overlay District has been created to ensure that the ground floor of buildings in designated blocks are designed using either Shopfront & Awning, Gallery, or Arcade private frontage.
<b>D. Watershed Area III Overlay (WS3-P and WS3-C)</b>	The Watershed Area III Protection regulations are established as an overlay district to preserve water quality in order to provide safe drinking water. The intent of this district is to establish regulations which ensure the availability of public water supplies at an acceptable level of water quality for present and future residents.
<b>E. Watershed Area IV Overlay (WS4-P and WS4-C)</b>	The Watershed Area IV Protection regulations are established as an overlay district to preserve water quality in order to provide safe drinking water. The intent of this district is to establish regulations which ensure the availability of public water supplies at an acceptable level of water quality for present and future residents.
<b>F. Flood Hazard Area Overlay (FHA-O &amp; FHCA-O)</b>	The Flood Damage Prevention regulations are established as an overlay district to protect public health safety and general welfare in the areas of Wilson that are prone to periodic flooding. Two districts are hereby created: the Flood Hazard Area Overlay (FHA-O) and the Flood Hazard Conservation Area Overlay (FHCA-O).
<b>G. Redevelopment Zone (RD-#)</b>	This district establishes specific project areas designed to promote the redevelopment of deteriorated neighborhoods or areas within the city.

### 2.8.2 HISTORIC OVERLAY (H-O) DISTRICT

- A. Purpose:** The Historic Overlay District (H-O) is a zoning overlay district established pursuant to N.C.G.S. §160A-400 and created with the purpose of implementing a design review process for properties and structures located within locally designated Historic Districts and individual Historic Landmarks in accordance with the City of Wilson’s adopted “Design Guidelines for Local Historic Districts and Local Landmarks.”
- B. Applicability:** All locally designated Historic Districts and Historic Landmarks shall be a part of the Historic Overlay District.

**C. Procedures:**

- Designation of Historic Landmarks/Districts – 15.11.1
- Certificates of Appropriateness-Minor – 15.11.2
- Certificates of Appropriateness-Major – 15.11.3

**D. Certificate of Appropriateness (COA)**

1. **Certificate Required:** No exterior feature of any building or other structure in an H-O (including masonry walls, fences, light fixtures, utility structures, steps, pavement, signs, landscape and application of color or other appurtenant features), shall be erected, altered, restored, moved or demolished until after an application for a Certificate of Appropriateness has been submitted to and approved by the Historic Preservation Commission (HPC). A Certificate of Appropriateness 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 and their environs. Any building permit or such other permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required whether or not a building or other permit is required. The City of Wilson shall be required to obtain a Certificate of Appropriateness prior to any changes in the character of public facilities, city-provided utilities, or public buildings in the Historic Overlay District.
2. **Conditions of Approval:** In approving a Certificate of Appropriateness, the Commission may attach reasonable conditions necessary to carry out the purposes of this ordinance.
3. **Exterior Features:** 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 or other structure, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures, as well as historic signs, significant landscape, archaeological and natural features of the area. Regulation of "exterior features" shall be limited to the "Areas of Visual Concern" as described in the City of Wilson "Design Guidelines for Local Historic Districts and Local Landmarks." In the case of outdoor advertising signs, "exterior features" shall mean the style, material, size, and location of all such signs.
4. **Limitation on Review of Interior Features:** Notwithstanding this ordinance, jurisdiction of the Commission over interior spaces shall be limited to specific interior features of architectural, artistic, or historical significant in publicly-owned landmarks, and of privately-owned historic landmarks for which consent for interior review has been given by the owner. If an owner's consent for interior review has been filed in the office of the Wilson County Register of Deeds and indexed according to the name of the owner of the property in the grantee and grantor indexes, such consent shall bind future owners and/or successors in title. The ordinance establishing the historic designation shall specify the interior features to be reviewed and the specific nature of the Commission 's jurisdiction over those features.
5. **Normal Maintenance and Repair/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 property located within a district that does not involve a change in

design or material. Nor shall this ordinance be construed to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of any such feature when a building inspector or similar official certifies to the Commission that such action is required for 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 their property not prohibited by other statutes, ordinances, or regulations. Nothing in this ordinance shall be construed to prevent the maintenance of or, in the event of an emergency, immediate restoration of any existing above-ground utility structure without approval by the Commission.

6. **Use of Guidelines:** The Commission shall adopt and utilize guidelines not inconsistent with Part 3B Article 19 of Chapter 160A of the N. C. General Statutes for appraising the altering, restoring, moving, or demolition of property designated as historic or located within any local historic district. It is the intention of these guidelines to ensure, insofar as possible, that changes in designated landmarks or properties located within designated districts shall be in harmony with the special character of the landmark or historic district.
  7. **Administrative Approval for Minor Works Allowed:** The Administrator may issue a Certificate of Appropriateness for minor works as listed in the Commission's Review Guidelines, or as otherwise directed by the Commission. Minor works shall include and are defined as those exterior changes that do not involve substantial alterations, additions, or removals that could impair the integrity of the property and/or district as a whole. No application for a minor works Certificate of Appropriateness may be denied without formal action by the Commission.
  8. **Delay in Demolition of Designated Properties:** Any application for a Certificate of Appropriateness authorizing the relocation, demolition, or destruction of a building or structure within a H-O District may not be denied. However, the effective date of such a Certificate of Appropriateness may be delayed for a period of up to 365 days for historic landmarks or 180 days for all other structures from the date of approval of the Certificate of Appropriateness. The City of Wilson shall also have the authority to delay the demolition of state and nationally-designated historic properties not in a H-O District pursuant to the provisions of NC Session Law 2008-58 according to the provisions of this section. The Commission may reduce the period of delay where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period, the Commission may negotiate with the property owner and any other parties in an effort to find a means of preserving the building, structure or site.
  9. **Properties of Statewide Significance:** The Commission may deny an application for a Certificate of Appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Office to have statewide significance, as defined in the criteria of the National Register of Historic Places, unless 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.
  10. **Permitted Uses:** All uses permitted in the applicable land development district underlying a historic overlay district are permitted in the H-O.
- E. **Demolition by Neglect:** Owners of historic properties and structures shall have the responsibility to preserve those properties and structures against decay,

deterioration, and structural defects and to correct conditions that would compromise their long-term integrity. The failure to properly maintain any designated historic landmark or property located within a district, whether intentionally or not, such that it falls into disrepair and is no longer habitable shall constitute a demolition by neglect of such property or structure and shall be a violation of this ordinance. The City of Wilson may take appropriate actions to prevent and/or cure a demolition by neglect violation according to the provisions outlined in Chapter 16 of this ordinance.

### 2.8.3 AIRPORT OVERLAY (A-O) [Revises Z-8.44-45]

- A. Purpose:** The Airport Overlay district is established for the purpose of regulating height and land uses which may be hazardous to the safe operation of aircraft. As an overlay district, the Airport Overlay District regulations further restrict development in any underlying district.
- B. Required Notification:** Any person who proposes construction or alteration in the vicinity of Wilson Industrial Air Center shall notify the regional director of the Federal Aviation Administration or the appropriate airports district office of any construction or alteration of greater height than an imaginary surface extending outward and upward at the following slope: 100 feet out to 1 foot up for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of Wilson Industrial Air Center.
- C. General Provisions:** The following limitations shall apply to all uses within the Airport Overlay Districts:
1. No use or activity shall take place within this district in such a manner as to create electrical interference with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, impair visibility, or otherwise create a hazard which may in any way endanger the landing, take-off, or maneuvering of aircraft using the airport.
  2. No glare-producing materials shall be used on the exterior of any building or structure located within the district.
  3. The requirements of this section shall not be construed to require a property owner to remove, lower, or make other changes or alterations of any structure that legally existed prior to the effective date of this ordinance. However, such structure shall be considered nonconforming if such structure is in conflict with these regulations.
  4. Pulsating, flashing, oscillating, or other types of attention-getting devices are prohibited. Lighting devices such as floodlights and spotlights shall be so arranged or shielded as not to cast illumination in an upward direction above an imaginary line extended from a light source parallel to the ground.
- D. Runway Zones:** There are hereby created and established certain zones within the Airport Overlay District which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Wilson Industrial Air Center. The Airport Obstructions Map as developed by is hereby adopted, and the various zones are hereby established and displayed on this map. The zones are defined as follows:
1. **Utility Runway Visual Approach Zone:** The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. This approach zone expands outward uniformly to a width of 1,250 feet at a

**14.6 HISTORIC PRESERVATION COMMISSION** *[Revises Section Z-8.42.IV]***14.6.1 POWERS AND DUTIES**

The Historic Preservation Commission of Wilson shall have the following powers and duties to be carried out in accordance with the terms of this ordinance and GS §160A, Article 19 Part 3C:

- A. To undertake an inventory of properties of historical, prehistorical, archaeological, architectural and/or cultural significance.
- B. Recommend that the local governing board revoke historic landmark and/or district designations.
- C. Act to prevent, restrain, correct, or abate violations of this ordinance or of ordinances designating historic landmarks or districts.
- D. Initiate or participate in negotiations to prevent demolition or promote relocation as a means of preserving properties.
- E. Negotiate with property owners for acquisition or protection of significant historic properties.
- F. Restore, preserve, and operate historic properties.
- G. To conduct an educational program on historic properties and districts and inform the public about historic preservation issues.
- H. Prepare and recommend the official adoption of a preservation element as part of the comprehensive plan.
- I. Advise property owners about treatment of historical characteristics of their properties.
- J. Advise City Council, the City Manager, and the departments of the city government regarding the protection or preservation of historic properties.
- K. To propose to the governing board, changes to this or any related ordinance, and to propose new ordinances or laws relating to an historic district, landmark, or the total program for the development of the historical resources of the city.
- L. To cooperate with the state, federal and local government in pursuance of the purposes of the tasks assigned to them; to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest. The City Council, or the commission, when authorized by the City Council, may contract with the state or the United States, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law.
- M. **UDO Review:** The Historic Preservation Commission shall review and make recommendations regarding the Designation of Historic Landmarks/Districts (15.11.1).
- N. **UDO Decisions:** The Historic Preservation Commission shall render final decisions regarding Certificates of Appropriateness (15.11.3).
- O. The Historic Preservation Commission shall also hear appeals of administrative decisions regarding Certificates of Appropriateness – Minor Works (15.11.2)
- P. The Historic Preservation Commission shall also have any additional powers and duties as may be set forth for in other laws and regulations or at the direction of the City Council.

**14.6.2 MEMBERSHIP AND QUORUM**

- A. The Wilson Historic Preservation Commission shall consist of 9 members. A quorum shall consist of a simple majority of the current membership of the commission. Vacant seats shall not be counted for the purpose of determining a quorum.
- B. A member who has withdrawn from a meeting without being excused by a majority vote of the remaining members present shall be counted as present for the purpose of determining whether or not a quorum is present.
- C. The Wilson City Council shall appoint all members. Vacancies shall be filled by the Wilson City Council as they occur.
- D. Reasonable effort shall be made to appoint members who live or own property in an historic district or landmark and who have demonstrated experience, education or special interest in historic preservation, architecture, history, archaeology or related fields.
- E. All members shall serve 3 year terms and may succeed themselves.
- F. Membership terms shall continue to be staggered so that the Commission will always be served by experienced members.
- G. Officers shall be elected in accordance with the adopted rules of procedure.
- H. Except where a member is excused from voting due to a conflict of interest in accordance with Section 14.7.3, a failure to vote by a member who is physically present in the meeting room, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

**14.7 MEETINGS AND GENERAL PROCEDURES**

**14.7.1 ALL MEETINGS TO BE OPEN**

All meetings of bodies under this ordinance shall be open to the public in accordance with G.S. 143-318 (Meetings of Public Bodies) and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the respective bodies and approved by the City Council.

**14.7.2 RULES OF PROCEDURE**

All Boards shall adopt formal rules of procedure consistent with the level of decision-making vested with that board/commission (e.g., advisory review, quasi-judicial). Any adopted rules of procedure shall be kept on file at the Planning and Development Services Department and shall be made available to the public.

**14.7.3 MINUTES**

Accurate minutes of each meeting shall be maintained, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and it shall keep records of its examinations and official actions, all of which shall be filed in the office of the Administrator for the public record.

**14.7.4 MEETINGS**

- A. All bodies authorized under this ordinance shall meet at regularly scheduled times and at such other times as determined by the chairman as provided for in the rules of procedure.
- B. Special meetings may be called at any time by the chairperson or by request of a majority of members of a board or commission in accordance with that group's adopted rules of procedure.

**14.7.3 CONFLICTS OF INTEREST**

Members of boards and commissions shall not vote on recommendations, permits, approvals, or other issues where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. No member shall be excused from voting except upon those matters as noted, above, or upon those others involving the consideration of his own financial interest or official conduct.

**14.8 STAFF**

The Administrator or their designee shall serve as staff to the various boards and commissions as outlined in this chapter. In addition, the city may provide legal and procedural assistance when requested.

**14.9 ATTENDANCE / MALFEASANCE POLICY**

All members shall attend board/commission meetings on a regular basis. If any member misses more than 3 consecutive meetings, or does not attend at least 75% of the meetings in 1 calendar year, he/she may be replaced at the discretion of the appointing authority. Members of boards/commissions may, after public hearing, be removed by the appointing authority for inefficiency, neglect of duty or malfeasance in office. The appointing authority shall file a written statement of reasons for such removal.



## 15.11 HISTORIC PRESERVATION

### 15.11.1 DESIGNATION OF HISTORIC LANDMARKS

Landmarks are those properties deemed and found by the Historic Preservation Commission (hereafter referred to as the HPC) to be of special significance in terms of their historical, pre-historical, architectural or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association. Upon complying with the required designation procedures set forth in NCGS 160A-400.1 et seq. the City Council may adopt, and from time to time, amend, or repeal, an ordinance designating one or more historic landmarks.

- A. Process Type:** Legislative.
- B. Inventory of Historic Landmarks:** As a guide for the identification and evaluation of landmarks, the HPC shall maintain an inventory of properties of historical, architectural, pre-historical and cultural significance within the land development jurisdiction of the city.
- C. Process for Landmark Designation:**
  - 1. An investigative report documenting the historical, architectural, pre-historical, educational or cultural significance of the property shall be prepared.
  - 2. The HPC shall review the report, after which, a copy shall be forwarded to the North Carolina Department of Cultural Resources, Division of Archives and History for formal comment.
- D. Creation of Ordinance for Designation:** Once recommended for designation, the Administrator shall draft an ordinance for landmark designation. Such ordinance shall include a description of the property(ies) to be designated, the name of the owner(s), those elements of the property that are integral to its historical, architectural or pre-historical value, including the land area to be designated, and any other information the City Council deems necessary.
- E. Public Notification:** Level 1, 2 & 3 as defined in Section 15.3.
- F. Neighborhood Meeting (15.3.5):** Optional.
- G. Public Hearing and Decision by the City Council:** The HPC and the City Council, either jointly or separately, shall hold a public hearing(s) on the proposed ordinance. Following the public hearing(s), the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
- H. Post-Adoption Procedures:** Upon the adoption of the ordinance, or any amendments thereto, the following shall occur:
  - 1. The owners and occupants of each landmark shall be given written notification of such designation insofar as reasonable diligence permits.
  - 2. The ordinance shall be filed in the office of the Register of Deeds of Wilson County and shall be indexed according to the name of the owner in the Grantee and Grantor indexes.
  - 3. The HPC shall give notice thereof to the Tax Supervisor of Wilson County.
  - 4. The HPC may also provide for a sign or marker indicating its historic designation.

### 15.11.2 DESIGNATION OF HISTORIC DISTRICTS

Historic districts consist of areas which are deemed 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. Upon complying with the required designation procedures set forth in NCGS 160A-400.1 at seq., the City Council may designate, and from time to time, amend one or more historic districts as Historic Overlay Districts.

**A. Process Type:** Legislative.

**B. Process for Historic District Establishment and Boundary Changes:**

1. The HPC shall prepare an investigation and report documenting the significance of the buildings, structures, features, sites or surroundings included in any proposed district, and a description of the boundaries of such district.
2. The NC Department of Cultural Resources, acting through the State Historic Preservation Office, shall make an analysis of and recommendations concerning such report and boundaries.
3. The Administrator shall draft an ordinance for the designation of said historic district.
4. The ordinance, together with the investigative studies and reports for any changes in the boundaries or creation of additional districts, shall be referred to the Planning and Design Review Board for review and comment.
5. Following the recommendation of the Planning and Design Review Board, the ordinance and reports shall be scheduled for a public hearing before the City Council.

**C. Public Notification:** Level 1, 2 & 3 as defined in Section 15.3.

**D. Neighborhood Meeting (15.3.5):** Optional.

**E. Public Hearing and Decision by the City Council:** The City Council shall hold a public hearing on the proposed ordinance. Following the public hearing, the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

### 15.11.3 CERTIFICATE OF APPROPRIATENESS – MAJOR WORKS

The HPC 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 which would be incongruous with the special character of a designated historic landmark or historic district.

**A. Applicability:** For all historic landmarks and properties in a local historic district, major works are those exterior changes that involve substantial alterations, additions or removals that could impair the integrity of the landmark, district property and/or historic district as a whole. Major works include new construction, additions, relocation, demolition (in part or in whole), and changes in design/materials.

**B. Process Type:** Quasi-Judicial. (See also 15.5)

**C. Pre-Application Meeting:** A pre-application conference is recommended prior to applying for a Certificate of Appropriateness for Major Works (hereafter referred to as “COA–Major”) determine what information will be required for the application.

- D. Required Application Information:** Sketch Plan (15.4.2) and Building Elevations for Design Review (15.4.7) (may be waived by Administrator as appropriate). Other information necessary to show any proposed changes, including a site plan, floor plan(s), photographs and a written description of materials and details may also be required as appropriate.
- E. Determination of Completeness:** The Administrator shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a hearing before the HPC.
- F. Public Notification:** Level 1 & 3 as defined in Section 15.3.
- G. Hearing:** The HPC shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.
- H. Findings of Fact:** HPC action on an application must be supported by specific findings of fact indicating the extent to which the application is, or is not, incongruous with the special character of the historic district or landmark.
- I. Historic Preservation Commission Review:** Following the hearing the HPC may approve, deny, or approve with conditions the application for a COA-Major. No COA-Major shall be granted unless the HPC finds that the application complies with its adopted principles and guidelines.
- J. Delay in Demolition:** An application for a COA-Major authorizing the demolition, removal or destruction of a building, structure or site may not be denied except as provided below:
1. **Applicability:** The HPC is authorized to act on demolition requests for:
    - a. Landmark structures
    - b. Properties located in local historic districts
    - c. Contributing and Pivotal properties located in the Central Business/Tobacco Warehouse National Register Historic District as authorized by Session Law 2008-58 under the provisions of NCGS 160A-400.15.
  2. The effective date of a COA-Major may be delayed for up to 365 days from the date of approval. The period of delay may be reduced by the HPC if it finds that the owner has demonstrated that he/she would suffer extreme economic hardship or be permanently deprived of beneficial use or return from such property by virtue of the delay.
  3. During the delay period, the HPC and other parties may negotiate with the owner in an effort to find a means of preserving the building, structure or site.
  4. If the HPC finds that a building, structure or site has no special significance or value toward maintaining the character of a district, it may waive all or part of such period of delay and authorize earlier demolition or removal.
  5. If the HPC has voted to recommend the designation of a landmark or the designation of an area as an historic district, and final designation has not been made by the City Council, the demolition or destruction of any building, structure or site in the proposed district or of the proposed landmark may be delayed by the HPC for up to 180 days, or until the City Council takes final action on the designation, whichever occurs first.

6. An application for a COA-Major authorizing the demolition of a building, structure or site determined by the State Historic Preservation Office as having statewide significance, as defined in the criteria of the National Register of Historic Places, may be denied except where the HPC finds that the owner would suffer extreme economic hardship or be permanently deprived of beneficial use or return by virtue of the denial.
  7. The City Council may enact an ordinance to prevent the demolition by neglect (see Section 16.2.3) of any designated landmark or any structure or building within an established local or national historic district. Such ordinance shall provide appropriate safeguards to protect property owners from extreme economic hardship.
- K. Review Period by Historic Preservation Commission:** Applications for a COA-Major shall be acted upon within 180 days after filing, otherwise the application shall be deemed approved and a certificate shall be issued. An extension of time may be granted by mutual consent of the HPC and the applicant.
- L. Appeals:** An appeal from the decision of the HPC regarding a COA-Major application may be made to the Board of Adjustment. Appeals may be taken by any aggrieved party, shall be within the time prescribed in the adopted Rules of Procedure and shall be in the *nature of certiorari*. Any such appeal must be made no later than 30 days after the applicant receives the written copy of the decision of the HPC.
- M. Permit Validity:** Discontinuance of work or a lack of progress toward achieving compliance with the approved certificate for a period of 12 months shall render the certificate null and void.
- N. Permit Extension:** An extension of a COA-Major may be granted administratively. Significant changes in the proposal shall require a new application.

#### 15.11.4 CERTIFICATE OF APPROPRIATENESS – MINOR WORKS

- A. Applicability:** Minor works are those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the property and/or historic district as a whole.
- B. Process Type:** Administrative.
- C. Pre-Application Meeting:** No pre-application conference is required prior to applying for a Certificate of Appropriateness for Minor Works (hereafter referred to as “COA-Minor”). Applicants are strongly encouraged to call or visit the Administrator prior to submitting an application to determine what information is required for the application.
- D. Required Application Information:** Sketch Plan (15.4.2) and Building Elevations for Design Review (15.4.7) (may be waived by Administrator as appropriate). Other information necessary to show any proposed changes, including a site plan, photographs and color samples may also be required as appropriate.
- E. Determination of Conformity:** Once an application is deemed complete by the Administrator, the Administrator shall review the application and approve it based on compliance with the standards contained in the Historic Preservation Guidelines. Those applications that do not meet these standards shall be referred to the HPC for review.
- F. Public Notification:** None required.
- G. Appeals:** Appeals of the decisions of the Administrator shall be heard by the HPC.

- H. **Permit Validity:** Failure to complete the construction/alterations/additions granted in the approval of the certificate within a period of 12 months following the approval of the certificate shall render the certificate null and void.
- I. **Permit Extension:** Administrative.

## 15.12 APPEALS OF ADMINISTRATIVE DECISIONS

### 15.12.1 APPLICABILITY

This process is hereby established to provide an appeal process for parties aggrieved by any administrative order, requirement, decision or determination, made by an administrative officer charged with enforcing the provisions of this ordinance.

### 15.12.2 FILING PROCEDURES

- A. **Process Type:** Quasi-Judicial. (See also 15.5)
- B. **Filing Procedure:** An appeal of an administrative decision may be taken by any person aggrieved (or by their authorized agent) or may be taken by any officer, department, board or bureau of the city. Such an appeal shall be made to the city within 30 days of the receipt of the written notice of decision from the city.
- C. **Stay of Proceedings:** The filing of an appeal shall stay all proceedings in furtherance of the contested action unless the Administrator certifies that, in his/her opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order granted by the Superior Court of Wilson County on notice to the administrative official from whom the appeal is taken with due cause shown.
- D. **Required Application Information:** All information relevant to describing the applicant's appeal to the Board of Adjustment is required. The Administrator shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision.
- E. **Public Notification:** Level 1 & 3 as defined in Section 15.3.

### 15.12.3 FORMAL REVIEW

- A. Upon receiving the application, the Board shall conduct a public hearing on the matter. Any party may appear in person or be represented by an agent at the hearing.
- B. After conducting the public hearing, the Board shall adopt an order reversing or affirming, wholly or in part, or modifying the order requirements, decision or determination in question. It shall take a 4/5ths vote of the Board to reverse or modify the contested action.
- C. The Board, in making its ruling, shall have all the powers of the Administrator from whom the appeal is taken, and may issue or direct the issuance of a permit.
- D. The decision of the Board must be in writing and permanently filed in the minutes of that reviewing body as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board, which must be delivered to parties of interest by certified mail.

### 15.12.4 APPEALS

- A. Any appeal from a decision of the Board of Adjustment may be made by an aggrieved party and shall be made to the Superior Court of Wilson County in the

nature of certiorari. Any such petition shall be filed no later than 30 days after the applicant receives a written copy of the decision of the Board of Adjustment.

- B. Any appeal from a decision relating to sedimentation and erosion control shall be made to the North Carolina Sedimentation Control Commission. Any such appeal shall be filed no later than 15 days after the applicant receives a written copy of the decision of the Board of Adjustment.

## 15.13 VARIANCES

### 15.13.1 PURPOSE/LIMITATIONS

- A. **Purpose:** The variance process administered by the Board of Adjustment is intended to provide limited relief from the requirements of this ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of the land in a manner otherwise allowed under this ordinance.
- B. **Financial Hardship Not Sufficient Ground for Variance:** It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this ordinance may impose on property owners in general or to increase the profitability of a proposed development.
- C. **Use Variances Not Permitted:** Except as provided in Section 15.13.3.B.2.6 below, in no event shall the Board of Adjustment grant a variance which would allow the establishment of a use which is not otherwise allowed in a land development district or which would change the land development district classification or the district boundary of the property in question. Nor shall the Board grant a variance which would allow the establishment of a use set forth herein as requiring certain conditions or standards under conditions or standards less than those minimums.
- D. **Authority Limited to this Ordinance/Conflicts with other Laws Prohibited:** In no event shall the Board of Adjustment grant a variance which would conflict with the North Carolina State Building Code or any other state code unless otherwise authorized by duly enacted applicable laws and regulations.

### 15.13.2 FILING PROCEDURES

- A. **Process Type:** Quasi-Judicial. (See also 15.5)
- B. **Pre-Application Procedure:** Every applicant for a variance is strongly encouraged to meet with the planning department in a pre-application conference prior to the submittal of a request for a variance. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.
- C. **Filing Procedure:** An application for a variance may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application.
- D. **Required Application Information:** All information relevant to describing the applicant's request to the Board of Adjustment.
- E. **Public Notification:** Level 1 & 3 as defined in Section 15.3.
- F. **Determination of Completeness:** Staff shall review an application for a variance to determine if it is complete. If an application is complete, the Administrator shall schedule the matter for consideration at a meeting of the Board of Adjustment. The Administrator shall prepare a staff report regarding the submitted variance application.