

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 30, ARTICLE 30-2, SECTION 30-2.C.8; CERTIFICATE OF APPROPRIATENESS OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA

BE IT ORDAINED, by the City Council of the City of Fayetteville, North Carolina, that:

Section 1. The Section 30-2.C.8, *Certificate of Appropriateness*, is amended by replacing the current text with the following text in its entirety:

a. Purpose

The purpose of this section is to provide for the review of development, alteration, or demolition of landmark historic structures, buildings, and sites, as well as for the historic structures, buildings and sites(to include new construction) within the Local Historic Overlay District by the Historic Resources Commission in accordance with the procedures and standards of this Ordinance and the Design Guidelines for Fayetteville's Historic Districts and Local Landmarks.

b. Applicability

1. *General*

- a. Unless otherwise exempted by Section 30-2.C.8.b.2, Exemptions, no exterior portion of any building or other structure, including masonry walls, fences, light fixtures, steps and pavement, other appurtenant features, any aboveground utility structure, or any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on designated landmark historic structures, buildings, and sites or other historic structures, buildings, and sites within the Local Historic Overlay District, and no Building Permit for

such development shall be issued, until an application for a Certificate of Appropriateness as to exterior features is submitted to and approved by the Historic Resources Commission in accordance with this section.

- b. Where a Certificate of Appropriateness is required for exterior work that does not require a Building Permit, no work shall occur until the project is submitted to, and receives a written Certificate of Appropriateness from the Historic Resources Commission in accordance with this section.

2. *Exemptions*

The following is exempt from the requirements of this section:

- a. The ordinary maintenance or repair of any exterior architectural feature that does not involve a change in design, materials, or outer appearance;
- b. The ordinary maintenance or repair of streets, sidewalks, pavement markings, street signs, or traffic signs;
- c. The construction, reconstruction, alteration, restoration, or demolition of any of the above features where the City Manager certifies the activity is required for the public's safety because of an unsafe or dangerous condition; and
- d. The maintenance of any aboveground utility structure or the immediate restoration of such a structure in the event of an emergency.

c. **Initiation**

An application for a Certificate of Appropriateness shall be initiated by any person having authority to file an application in accordance with Subsection 30-2.B.1, Authority to File Applications.

d. **Procedure**

1. *Basic Procedures*

Except as modified by Sections 30-2.C.8.d.2—7 below, procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on applications are as established in Section 30-2.B, Common Review Procedures.

2. *Review and Action on Minor Works by City Manager*

- a. Where the development proposed by a Certificate of Appropriateness is identified by the Design Guidelines for Fayetteville's Historic Districts and Local Landmarks, which is hereby incorporated by reference, as one that would not impair the integrity of the property and/or district as a whole, the City Manager may act to approve the application or approve it subject to conditions, based on the standards in Section 30-2.C.8.e, Certificate of Appropriateness Standards. The City Manager shall forward to the commission any staff-approved Certificate of Appropriateness application involving minor works.
- b. In all other instances, following staff review, the City Manager shall submit all Certificate of Appropriateness applications to the Historic Resources Commission for review and action.

3. *Review and Action by Historic Resources Commission*

For all other Certificate of Appropriateness applications, following staff review, the Historic Resources Commission shall conduct an evidentiary hearing on the application in accordance with Section 30-2.B.12, Public Notification, and Section 30-2.B.14, Evidentiary Hearing Procedures (Quasi-Judicial Decisions). After close of the hearing, the Historic Resources Commission shall consider the

application, relevant support materials, the staff report, the City Manager's comments, and any testimony or evidence given at the hearing and included in the record. The Historic Resources Commission, by a majority vote of a quorum present, shall take one of the following actions based on the standards in Section 30-2.C.8.e, Certificate of Appropriateness Standards:

- a. Approval of the application as submitted;
- b. Approval of the application subject to conditions; or
- c. Denial of the application

4. *Demolition*

- a. The Historic Resources Commission may not deny a Certificate of Appropriateness application proposing the demolition, removal, or destruction of a designated landmark or building, structure, or site within the Historic/Landmark Overlay District unless the State Historic Preservation Officer determines that the building, structure, or site is of statewide significance and its owner would not suffer extreme hardship or be permanently deprived of all beneficial use or return if demolition were denied.
- b. The Historic Resources Commission, however, may delay the effective date of a Certificate of Appropriateness for such demolition, removal, or destruction for up to 365 days from the date of approval. The Commission shall use such time to negotiate with the owner to find a means of preserving the building, structure, or site.

5. *Conditions of Approval*

In approving a Certificate of Appropriateness application, the Historic Resources Commission may impose appropriate conditions on the approval in accordance with Section 30-2.B.16, Conditions of Approval.

6. *Appeal*

- a. If the decision involves property owned by the State, the State shall have the right to appeal the decision to the State Historical Commission upon filing such an appeal within 30 days after the date of the decision. The decision of the State Historical Commission shall be final and binding upon both the State and the Historic Resources Commission.
- b. An appeal from the City Manager's decision on a Certificate of Appropriateness application for minor works or from the Historic Resources Commission's decision on other Certificate of Appropriateness applications shall be filed within ten business days of the date of the decision, and shall be reviewed and decided by the Zoning Commission in accordance with Section 30-2.C.18, Appeal, except that the appeal shall be in the nature of certiorari.

7. *Expiration*

- a. The Historic Resources Commission may prescribe a time limit within which either the activity or the building permit for the development authorized by the Certificate of Appropriateness shall be secured. Failure to establish the activity or obtain the building permit shall void the Certificate of Appropriateness.
- b. Unless otherwise specified in the Certificate of Appropriateness, the Certificate of Appropriateness shall automatically expire within one year after the date of issuance if the activity or building permit authorized by the Certificate is not secured.

- c. In cases where a maximum time frame for development is established as a condition of approval, the Certificate of Appropriateness shall expire upon the lapse of the allowable time frame.

8. *Extension*

Upon written request submitted at least 30 days before expiration of the time period provided in accordance with Section 30-2.C.8.d.7 above, and upon a showing of good cause, the city manager may grant one extension not to exceed six months. Failure to submit a written request for an extension within the time limits established by this section shall result in the expiration of the Certificate of Appropriateness.

e. Certificate of Appropriateness Standards

1. A Certificate of Appropriateness application shall be approved upon a finding the application complies with the Design Guidelines for Fayetteville's Historic Districts and Local Landmarks, and is otherwise congruous with the special character of the Local Historic Overlay District.
2. The following design features and elements shall also be considered in reviewing Certificate of Appropriateness applications:
 - a. Lot coverage - the percentage of the lot area covered by primary structures;
 - b. Setback - the distance from the lot lines to the building (setback);
 - c. Building height;
 - d. Spacing of buildings - the distance between adjacent buildings;
 - e. The proportion, shape, positioning, location, pattern, sizes, and style of all elements of fenestration and entry doors;

- f. Surface materials and textures;
- g. Roof shapes, forms, and materials;
- h. Use of regional or local architectural traditions;
- i. General form and proportion of buildings and structures, and the relationship of additions to the main structure;
- j. Expression of architectural detailing;
- k. Orientation of the building to the street;
- l. Scale - the size of units of construction and architectural details in relation to the human scale, and the relationship of the building mass to adjoining open space and nearby buildings and structures;
- m. Proportion of width to height of the total building façade
- n. Archaeological sites and resources associated with standing structures;
- o. Effect of trees and other landscape elements;
- p. Major landscaping that would impact known archaeological sites;
- q. Style, material, size, and location of all outdoor advertising signs;
- r. Appurtenant features and fixtures, such as lighting;
- s. Structural condition and soundness;
- t. Walls and their physical ingredients, such as brick, stone, or wood walls, wrought iron fences, evergreen landscape masses, or combinations of these;
- u. Color;
- v. Ground cover or paving; and
- w. Significant landscape, archaeological, and natural features.

f. Amendment

A Certificate of Appropriateness may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

Section 2. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code or Ordinances, City of Fayetteville, North Carolina.

ADOPTED this the _____ day of _____, 2023.

CITY OF FAYETTEVILLE

MITCH COLVIN, Mayor

ATTEST:

PAMELA J. MEGILL, City Clerk