

ORDINANCE NO. 76

HISTORIC

LANDMARKS

ORDINANCE

OF THE

VILLAGE OF FLAT ROCK,

NORTH CAROLINA

Adopted: September 12, 2013

Amended: June 30, 2021

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FLAT ROCK HISTORIC LANDMARKS ORDINANCE

ARTICLE I GENERAL PROVISIONS

Section 101 Authority.

The Council of the Village of Flat Rock, pursuant to the authority conferred by the North Carolina General Statutes, specifically NCGS §160D-940 through NCGS §160D-951 hereby enacts this ordinance into law.

Section 102 Title.

This ordinance shall be known and may be cited as the Historic Landmarks Ordinance of the Village of Flat Rock, NC.

Section 103 Purpose.

Whereas the historical heritage of the Village of Flat Rock 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 landmarks, stabilizes and increases property values, this ordinance is enacted in order to:

1. safeguard the heritage of the Village of Flat Rock by preserving landmarks therein that embody important elements of its culture, history, architectural history, or prehistory; and
2. promote the use and conservation of such landmarks for the education, pleasure, and enrichment of the residents of the Village of Flat Rock and of the state as a whole.

Section 104 Jurisdiction.

This ordinance shall be applicable within the corporate limits of the Village of Flat Rock.

ARTICLE II INTERPRETATION AND DEFINITIONS

Section 201 Word interpretation.

Except as specifically defined herein, all words used in this ordinance have their customary dictionary definitions. For the purpose of this ordinance, certain words or terms used herein shall be interpreted as follows:

The word “Village” means the Village of Flat Rock, North Carolina.

The word “Mayor” means the Mayor of the Village of Flat Rock, North Carolina.

The words “Village Council” mean the Council of the Village of Flat Rock, North Carolina.

The word “ordinance” means the Historic Landmarks Ordinance of the Village of Flat Rock.

The words “Planning Board” mean the Village of Flat Rock Planning Board.

The words “Board of Adjustment” mean the Village of Flat Rock Board of Adjustment.

The word "commission" means the Historic Landmarks Commission of the Village of Flat Rock.

The words “Land Development Ordinance” or “LDO” mean the Land Development Ordinance of the Village of Flat Rock.

The word “shall” is mandatory, and the word “may” is permissive.

The word “person” includes an individual, a firm, association, organization, partnership, corporation, company, trust, governmental unit, limited liability company or any combination thereof.

Section 202 Definitions.

Certificate of appropriateness. A document issued by the commission that states that the project described in the application complies with this ordinance and the principles, guidelines and standards established by the commission.

Demolition by neglect. The failure of an owner to maintain a building or structure in a serviceable condition, free from water damage, or other condition that results in a compromise of its historic features and is likely to require its demolition for safety reasons.

Exterior features. The architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind, color 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, significant landscape, archaeological, and natural features of the area, or in the case of outdoor advertising signs, the style, material, size, and location of all such signs.

Historic landmark. Any land, building or other feature listed or eligible for listing on the National Register of Historic Places, or any building, structure, site, area or object which is of historic, prehistoric, architectural, archaeological or cultural significance, as determined by the Village Council.

Historic landmarks inventory. An inventory of properties of historical, architectural, prehistorical, and cultural significance located in the Village of Flat Rock that were built prior to 1912, as compiled by the commission in accordance with Section 302 B.

Major work. Work where the visual character of the exterior features of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features) is significantly altered, or an above-ground utility structure or any type of outdoor advertising sign is erected or significantly altered, and shall include restoration, moving or demolition of any structure.

Minor work. Exterior work where the visual character of the exterior features of the structure are not significantly altered.

Property owner or owner. The holder of the title in fee simple.

Structure. Anything constructed or erected, including, but not limited to, a building, porch, deck, patio, antenna, solar energy system or any other structure that is permanently located on the land or attached to something having permanent location on the land.

ARTICLE III HISTORIC LANDMARKS COMMISSION AND CERTIFICATES OF APPROPRIATENESS

Section 301 Historic Landmarks Commission.

The Historic Landmarks Commission shall have five members. After this ordinance is adopted, and as necessary from time to time thereafter to fill vacancies, the Mayor shall appoint three members of the Historic Landmarks Commission from among the six members of the Village Council, one of whom shall be appointed as the chairperson, and nominate two members from the community to be approved by the Council. Terms of commission members shall be limited to four years. The Mayor shall insure that a majority of the members of the commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields and provide education and training for members as necessary.

Section 302 Duties of the commission and the Village Council.

A. Prior to any action to prepare a historic landmarks inventory, the commission shall prepare and adopt rules of procedure, and prepare and adopt principles and guidelines for new construction, alterations, additions, moving and demolition of historic landmarks, including standards for approving minor work and certificates of appropriateness.

B. The commission shall undertake, at the earliest possible time, a historic landmarks inventory of properties of special historical, architectural, prehistorical, and cultural significance to the Village. In making selections for the inventory, the commission shall consider the extent to which the property is historically significant and the extent to which the existing features resemble that which they determine are historically significant. The

initial inventory will be compiled from the Flat Rock Historic District National Register of Historic Places Inventory-1973 and from the Flat Rock Historic District Boundary Increase, Boundary Decrease, and Additional Documentation that has been prepared by Historic Flat Rock, Inc., and may include any other properties of special historical significance that the commission deems to be appropriate for consideration to be designated as a historic landmark. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Office of Archives and History, North Carolina Department of Cultural Resources.

C. Using the historic landmarks inventory as a guide, the commission may from time to time make, cause to be made or accept from a property owner an investigation and designation report on the historic, architectural, prehistorical, educational or cultural significance of each building, structure, site, area or object proposed for designation as a historic landmark. Such investigation or report shall be forwarded to the Office of Archives and History, North Carolina Department of Cultural Resources if it meets the criteria of this ordinance. No property shall be recommended for designation as a historic landmark unless it is deemed and found by the commission to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association. The investigation and designation report shall include the following:

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 Henderson County tax map parcel number or parcel identification;
4. The dates of original construction and of all later additions or alterations, if available and applicable;
5. An assessment of the historic significance of the building or site as prescribed by this ordinance;
6. An architectural and/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, including individuals and families associated with the site;
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 contributing and noncontributing outbuildings and appurtenant features.

D. Within thirty days after the investigation and report specified in Section 302 C has been forwarded to the Office of Archives and History, North Carolina Department of Cultural Resources, the commission shall give notice to the owner of each site listed on said investigation and report and a copy of this ordinance, advising that the owner's property is being considered for designation as a historic landmark and that the owner has the following options:

1. No action is necessary if the owner does not wish to have his or her property considered for designation as a historic landmark for the purposes of this ordinance, and such properties shall not be considered for designation.
2. Advise the commission in writing that he or she wishes to have his or her property considered for designation as a historic landmark by an ordinance adopted by the Village Council, and that he or she understands that the following benefits and burdens will accrue if his or her property is designated as a historic landmark by the Village Council and retains its status as a designated historic landmark:
 - a. Properties designated as historic landmarks are eligible for certain property tax benefits and burdens as specified in NCGS §105-278.
 - b. Owners of properties designated as historic landmarks must apply to the commission for a certificate of appropriateness as specified in Section 303 prior to demolishing it, moving it or significantly altering its exterior. The commission may deny an application for a certificate of appropriateness for the demolition or relocation of a landmark that has statewide significance and may delay demolition or relocation of a designated landmark for up to 365 days as provided in Section 303. Designation as a historic landmark may be revoked for failure to comply with this ordinance.
 - c. The owner must apply for property tax benefits in accordance with this ordinance, the requirements of the Henderson County Assessor, NCGS §105-278 and NCGS §105-282.1 (2).
 - d. The designation of a property as a historical landmark runs with the land, will be recorded with the title to the property and will bind future owners.

E. After considering the written comments by owners of historic landmarks who wish to have their properties considered for designation, and any recommendations from the State Historic Preservation Officer, the commission shall prepare a resolution recommending designation as historic landmarks to the Village Council. The resolution shall state

precisely what is being recommended for designation, including any land area around a building or structure, and describe it with specificity.

F. Within thirty days from receipt of a resolution from the commission, and prior to the adoption of any ordinance designating any property as a historical landmark or amending a designation ordinance, the Village Council shall set a date for a public hearing to be held jointly with the commission, with the Mayor presiding. Reasonable notice of the place and time of the public hearing shall be given. Following the public hearing, the Village Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance. For each historic landmark included in a designation ordinance, the ordinance shall include the following information:

1. The name or names of the owner or owners of the property;
2. A description of each property designated by the ordinance, including the address, if applicable, the physical configuration and orientation of the property;
3. A description of those elements of the property which are integral to its historic, architectural, archaeological, and/or cultural significance;
4. A statement that the property owner must file an application with the Henderson County Assessor during January of the year following the year in which the designation is made in order to qualify for a tax deferral under NCGS §105-278;
5. Any other information deemed necessary, within the authority of this ordinance and the general statutes as determined by the Village Council.

G. Within thirty days after the Village Council adopts or amends a designation ordinance, the commission shall be responsible for notifying the owner(s) and shall file one copy of the designation ordinance in each of the following locations:

1. The office of the register of deeds for Henderson County, indexed by the name of property owner in the grantee and grantor indexes.
2. The office of the Village Clerk to be made available to the public.
3. The office of the Henderson County building inspector.
4. The office of the Henderson County Assessor.

H. The commission is authorized to hear and act upon petitions submitted by owners of historic properties in the Village for inclusion in a historic landmarks designation ordinance. Such properties must meet the requirements for inclusion on the historic landmarks inventory, except that the commission may consider landmarks built prior to 1950 if such landmarks have unique historical significance due to the site where they are located, the builders of the landmark or the former owners of the landmark. After considering a property owner's petition the commission may either deny the petition, or

approve the petition and process the properties approved in accordance with the procedures for designation set forth in paragraphs C through G of this Section.

I. The commission shall be responsible for accepting and acting on applications for certificates of appropriateness in accordance with Section 303.

J. The commission may recommend to the Village Council by resolution that a designation of any building, structure, site, area or object as a historic landmark be revoked or removed for cause or that a designation ordinance be amended.

K. The commission may appoint advisory bodies and committees as appropriate, with the advice and consent of the Village Council.

L. The commission is authorized to accept grants of funds from private individuals or organizations for historic landmark preservation purposes.

M. The commission shall annually present to the Village Council a report of its activities, budget, findings, recommendations and actions, which shall be made available to the public.

Section 303 Certificate of appropriateness required.

A. *General requirement.* From and after the designation of any property as a historic landmark, a certificate of appropriateness shall be required for any major work or minor work on such landmark. The Zoning Administrator shall not issue a certificate of zoning compliance or other permit required for the purposes of altering, moving, or demolishing a historic landmark unless a certificate of appropriateness has first been issued for a given project. However, commission approval is not required for routine maintenance or repairs that do not involve a change in design, material or appearance, for changes certified by the Henderson County building inspector as necessary for public safety or for any other work specifically permitted in accordance with NCGS §160D-947.

B. *Major work.* An application for a certificate of appropriateness must be submitted to and approved by the commission in accordance with this ordinance, the guidelines, standards and rules established by the commission, and with NCGS §160D-102 and 160D-947.

C. *Minor work.* The Zoning Administrator may approve an application for minor work and issue a certificate of appropriateness if said application and work complies with the guidelines and standards established by the commission in the *Flat Rock Historic Landmarks Reference (document)* or may refer the application to the commission for consideration. The Zoning Administrator is not authorized to deny an application for a certificate of appropriateness.

D. *Interior work or spaces.* The commission shall have no jurisdiction over interior work or space and shall take no action under this ordinance regarding interior work or space in privately owned historic landmarks unless written consent for interior review has been

given by the owner. Said consent of an owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the register of deeds of 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 ordinance shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.

E. *Demolition or relocation.* The commission may deny an application for a certificate of appropriateness to demolish or relocate a historic landmark if the State Historic Preservation Officer determines that the landmark has 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. For all other landmarks, the commission has the following duties and authority:

1. The commission shall begin expeditiously to negotiate with property owners who propose to demolish or relocate a designated historic landmark in an effort to find a means of preserving the landmark, including consulting with private civic groups, interested private citizens and other public boards or agencies.
2. The commission may delay demolition or relocation of a historic landmark for up to 365 days from the date a certificate of appropriateness is approved unless it finds that the property owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from the property due to the delay. In such case the commission shall waive or reduce the delay period.
3. If the commission has voted to recommend designation of a landmark, but final designation has not been made by the Village Council, the commission may delay demolition or relocation for up to one year or until the Village Council takes final action on the designation, whichever occurs first.

Section 304 Application for certificate of appropriateness.

A. *Applications.* Applications must be filed with the Zoning Administrator on forms provided by the zoning office of the Village. Applications that are not complete shall be returned to the applicant with a notation of the deficiencies in the application. The timing for review and approval of an application shall not begin to run until a complete application has been accepted by the Zoning Administrator. Only one application is required for a project. A completed application will be considered by the commission no later than sixty days after acceptance by the Zoning Administrator.

B. *Authorized signatories.* A completed application must be signed by all of the property owners of the property that is the subject of the application or supported by an affidavit signed by all property owners giving the applicant the permission to file the application, or signed by an authorized agent of all of the property owners who has authority to bind the property to the proposal and to conditions that the commission might impose.

C. *Required support documentation and fees.* The application shall include all documentation and fees required by this ordinance, and shall include any other information and documentation deemed by the Zoning Administrator to be sufficient to review the application.

D. *Statement of congruity.* Each application shall contain a statement by the applicant specifying how and why the proposed change is congruous with the special character of the landmark as the special character is described in the designation ordinance.

E. *Form of applications.* Applications shall be submitted in both paper and digital forms, the digital format to be Adobe Acrobat (.PDF). Excepted from such requirement for submission in digital form are applications for certificates of zoning compliance for additions and other small projects for which the Zoning Administrator does not require a current survey or site plan prepared by a qualified professional.

F. *Number of copies.* The Zoning Administrator shall determine the number of copies to be submitted by the applicant to ensure that there are sufficient copies for review and comment.

G. *Effect of approval.* An approved application and all conditions that may be attached thereto are binding on the property

Section 305 Documentation required for applications.

The documentation necessary for an application for a certificate of appropriateness shall be that necessary for a certificate of zoning compliance under the Land Development Ordinance, if applicable, or such other documentation as deemed necessary by the Zoning Administrator to permit comprehensive review by the commission and shall include a list identifying all adjacent property owners by name and mailing address. Depending upon the size and extent of the project, such documentation may include, but not be limited to, photographs of the structure and the area where the work is to be performed, photographs of any windows and doors that are to be replaced, architectural drawings showing both the existing elevations and proposed changes to the building, structure or site, a site plan showing existing building footprint and proposed footprint, including landscape features, patios, fences, retaining walls, driveways and any other site alterations and samples of exterior materials and colors. All drawings must be to scale, with sufficient clarity and detail to show the character of the proposed work.

Section 306 Informal consultation regarding applications.

The applicant is encouraged to consult with the Zoning Administrator, or a committee appointed by the commission if one has been appointed, regarding design guidelines and standards prior to making an application for a certificate of appropriateness. Due process considerations prohibit the Zoning Administrator, or a committee from expressing an opinion or indicating approval or disapproval of plans. However, such informal consultation may help minimize the documentation necessary for the application even

though the unofficial discussion is not binding on the commission in its review of the resulting application.

Section 307 Procedures for review and approval of applications.

A. *Standard for review.* In making all decisions to approve or deny applications for certificates of appropriateness, the applicant and owners of any property likely to be materially affected by the application shall be given an opportunity to be heard. The commission shall take no action except to prevent changes that would be incongruous with the special character of the landmark.

B. *Initial review.* The commission shall review all completed applications for major work that have been filed with the Zoning Administrator since its last regularly scheduled meeting and by a majority vote decide on the appropriate handling of each application.

C. *Referral to Zoning Administrator.* Applications for minor work that are straight forward and not likely to give rise to controversy or affect adjacent property owners may be referred by the Commission back to the Zoning Administrator for determination and approval consistent with the guidelines and standards established by the commission in the *Flat Rock Historic Landmarks Reference (document)*. Other than these administrative decisions on minor works, decisions on certificates of appropriateness are quasi-judicial and shall follow the procedures of NCGS §160D-406.

D. *Public hearings.* All other applications shall be scheduled for an evidentiary hearing in accordance with the rules of procedure adopted by the commission and NCGS §160D-406.

E. *Approved applications.* A copy of all approved applications for a certificate of appropriateness, whether approved by the Zoning Administrator or the commission, shall be sent to the Henderson County Tax Assessors office within five days after the application is approved.

**ARTICLE IV
ADMINISTRATION AND ENFORCEMENT**

Section 401 Enforcement.

The Zoning Administrator shall administer the enforcement of the provisions of this ordinance, violations of the ordinance or violations of orders or conditions issued or imposed by the commission or the Village Council. The Zoning Administrator shall have the authority, based upon consent of the owner, to enter the property where a suspected violation exists and inspect the property to determine if such violation exists, or if refused entry, seek an administrative warrant for such an inspection.

Section 402 Duties and function; Village Council, Zoning Administrator and Board of Adjustment.

The duties of the Village Council in connection with this ordinance shall be to hold public hearings and to vote upon any proposed amendment or repeal of this ordinance or any designation ordinance as provided by law. The administration, enforcement and interpretation of this ordinance shall be the responsibility of the Zoning Administrator. The Board of Adjustment shall hear appeals from decisions by the Zoning Administrator or the commission under this ordinance in accordance with Article V.

Section 403 Remedies.

In case any building, structure, site, area or object designated as a historic landmark is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with this ordinance, the Village Council, commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area or object. Such remedies shall be in addition to any others authorized by NCGS §160D-404 for violation of a municipal ordinance.

Section 404 Nonexclusive remedy.

Nothing in this Article shall be construed to impair or limit the power of the Village to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise, as provided by law.

**ARTICLE V
HEARINGS AND APPEALS**

Section 501 Appeals to the Board of Adjustment.

The Board of Adjustment shall be authorized to interpret this ordinance on appeal and to hear and decide appeals from and review any final and binding order, requirement, determination or other decision made by the commission or the Zoning Administrator under this ordinance. An appeal may be taken by any person who has standing under NCGS §160D-1402 or by an officer, department or board of the Village. Appeals shall be taken within the times and in accordance with the procedures prescribed in Section 502.

Section 502 Procedures for appeals.

A. *Filing Notices of Appeal.* No appeal shall be heard by the Board of Adjustment unless written notice thereof is filed within thirty calendar days after the property owner or other party receives notice of the final and binding order, requirement, determination or other decision by the Zoning Administrator or the commission. Any other person with standing to appeal shall have thirty days from receipt from any source of actual or constructive notice of the decision within which to file an appeal. Notice of appeal shall be filed with the Village Clerk. The notice shall state the grounds for the appeal and also state why the appellant has standing to appeal under NCGS §160D-1402. The Village Clerk

shall notify the Zoning Administrator and the Chairperson of the Board of Adjustment that a notice of appeal has been received. The Zoning Administrator shall provide the appellant with a copy of the “order of business” for these quasi-judicial hearings and shall transmit to the board all documents and exhibits constituting the record upon which the action appealed from is taken and provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

B. *Hearings.* Upon receipt of a notice of appeal, the Zoning Administrator shall schedule a time for a quasi-judicial hearing that shall be within thirty calendar days of the filing of such notice of appeal or request.

C. *Notice of hearing.* For hearings under this section, the Zoning Administrator shall give notice of the public hearing to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this ordinance. In the absence of evidence to the contrary, the Village may rely on the Henderson County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten days, but not more than twenty-five days, prior to the date of the hearing. Within that same time period, the Zoning Administrator shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. Notices shall state the location of the lot or building, the type and nature of the appeal or application and the time, date and place of the hearing.

D. *Conduct of hearings pursuant to NCGS §160D-102 (Definitions) and 160D-947 (Certificate of appropriateness required).* In an appeal of a decision by the commission on an application for a certificate of appropriateness pursuant to NCGS §160D-102 and 160D-947, the hearing shall be based on the underlying record, and the scope of the review shall be as provided in NCGS §160D-1402. Any party may appear at the hearing in person, by agent or by attorney. If testimony is allowed at a hearing under this subsection, it shall be given under oath or affirmation, and any party shall have the right to confront and cross-examine another party’s witnesses. If the commission’s decision was not a result of an error of law or an abuse of discretion, the Board of Adjustment shall affirm the decision.

E. *Conduct of all other hearings.* The presiding officer of the Board of Adjustment and the secretary of the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board, willfully swears falsely is guilty of a Class 1 misdemeanor. The board may subpoena witnesses and compel the production of evidence in accordance with NCGS §160D-302 (Boards of adjustment) and NCGS §160D-406(g) (Quasi-judicial procedure, (g) Subpoenas.) Any party may appear at the hearing in person, by agent or by attorney and all testimony shall be given under oath or affirmation, and any party shall have the right to confront and cross-examine another party’s witnesses. The Zoning Administrator shall appear at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Village would be unduly

prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

F. *Voting.* A concurring vote of a majority of the members of the Board of Adjustment shall be necessary to make a decision on an appeal.

G. *Decisions by the Board of Adjustment.* Decisions shall be based upon competent, material and substantial evidence in the record. The secretary of the hearing board shall give a preliminary notice of the vote taken by the board by personal delivery, electronic mail or first class mail to the appellant, the property owner, and to other persons who have submitted a written request for a copy, no later than the close of business following the date of the vote and post a copy of the decision at the Village office for a period of thirty days. The hearing board shall meet no later than thirty days following the decision to review the minutes of the hearing and approve the final decision to be signed by the presiding officer. The secretary of the hearing board shall deliver the final decision of the board to the appellant, the property owner, and to other persons who have submitted a written request for a copy, prior to the date the decision becomes effective by personal delivery, electronic mail or first class mail and shall certify for the record that proper notice has been made. The final decision will become effective when filed with the record of the case as entered in the approved minutes of the hearing board in the office of the Village Clerk. Such decision shall reflect the hearing board's determination of the contested facts and their application to the applicable standards. The decision on an appeal may reverse or affirm, wholly or partly, or may modify the decision or determination of the Zoning Administrator and the hearing board shall have all the powers of the Zoning Administrator to make any order, requirement, decision, or determination that ought to be made.

Section 503 Appeals from decisions by the Board of Adjustment.

Decisions by the Board of Adjustment under this ordinance shall be subject to review by the superior court by proceedings in the nature of certiorari. A petition for review shall be filed with the clerk of superior court by the later of thirty days after the decision is effective or after a written copy thereof is delivered in accordance with Section 502 G. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

Section 504 Fee schedule.

The Village Council may establish, and modify from time to time, a fee schedule for the administration and enforcement of this ordinance. Fees may include expenses for technical advisors when needed to evaluate an application. In order to be deemed complete, all applications and appeals shall be accompanied by payment of applicable fees.

**ARTICLE VI
AMENDMENTS**

Section 601 Authority to amend.

This ordinance may be amended by the Village Council in accordance with the provisions of this article.

Section 602 Initiation of amendments.

Proposed changes or amendments to this ordinance may be initiated by the Village Council, the Historic Landmarks Commission or the Zoning Administrator.

Section 603 Planning Board action.

Before taking any action on a proposed amendment to this ordinance, the Village Council may consider the Planning Board's recommendation on such proposed amendment.

Section 604 Public hearing.

Before enacting any amendment to this ordinance, the Village Council shall hold a public hearing on the proposed amendment. Prior to the public hearing, the village shall publish a notice of public hearing in a local newspaper with general circulation in the Village once a week for two consecutive weeks. The first such publication shall appear not less than ten or more than twenty-five calendar days prior to the date fixed for the public hearing. In computing such period, the day of the publication shall not be counted, but the date of the hearing shall be counted. The notice shall include the time, place and date of the hearing, and the nature of the amendment. The notice of public hearing shall also conform to the requirements in NCGS §160D-601 (Procedure for adopting, amending, or repealing development regulations.)

**ARTICLE VII
LEGAL STATUS**

Section 701 Conflict of laws.

Whenever this ordinance imposes more restrictive standards than are required under any North Carolina statute, or any other ordinance of the Village, the requirements of this ordinance shall govern. Whenever any statute, or any other ordinance of the Village requires more restrictive standards than are required by this ordinance, the provisions of such statute or ordinance shall govern.

Section 702 Severability.

Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction in the subject matter, such declaration shall not affect the validity of the ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

Section 703 Effective date.

This ordinance shall take effect and be in force on and after June 30, 2021.

Michelle Parker, CMC
Village Clerk

Robert V. Staton
Mayor

Approved as to form:

Sharon B. Alexander
Village Attorney